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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: TERRORIST ATTACKS       )   03-MDL-1570 (GBD) (SN)  
ON SEPTEMBER 11, 2001       )  
  )

— — —

Tuesday, July 13, 2021

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CONFIDENTIAL MATERIAL

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Remote video-recorded deposition of JONATHAN M.  
WINER, held at the location of the witness,  
commencing at 10:04 a.m., on the above date, before  
Debra A. Dibble, Certified Court Reporter,  
Registered Diplomate Reporter, Certified Realtime  
Captioner, Certified Realtime Reporter and Notary  
Public.

— — —

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ALSO PRESENT:

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TRIAL TECHNICIAN:

BRIAN FRONZAGLIA  
GOLKOW LITIGATION SERVICES

VIDEOGRAPHER:

DAVID LANE  
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P R O C E E D I N G S

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July 13, 2021, 10:04 a.m. EDT

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THE VIDEOGRAPHER: We are now on the

6

record. My name is David Lane. I'm the

7

videographer for Golkow Litigation Services.

8

Today's date is July 13, 2021, and our time is

9

10:04 a.m. Eastern Standard Time.

10

This remote video deposition is being

11

held in the matter of the terrorist attacks on

12

September 11th, 2001. Our deponent today is

13

John Winer. All parties to this deposition

14

are appearing remotely and have agreed to the

15

witness being sworn in remotely. Due to the

16

nature of remote reporting, please pause

17

briefly before speaking so that all the

18

parties can be heard completely.

19

Our court reporter today is Debbie

20

Dibble, and will now swear in our witness.

21

-----

22

JONATHAN M. WINER,

23

having been duly sworn,

24

testified as follows:

25

EXAMINATION

1 Q. (BY MR. MOHAMMEDI) good morning,  
2 Mr. Winer.

3 Can you just tell me your name, full  
4 name?

5 A. My full name?

6 Q. Can you mention your full name for me?

7 A. Yes, my full name is Jonathan Manuel  
8 Winer.

9 Q. And what is your age?

10 A. I'm 67.

11 Q. And date of birth?

12 A. June 21st, 1954.

13 Q. Have you ever been deposed before this  
14 deposition before?

15 A. Yes.

16 Q. Have you ever testified in court before?

17 A. Yes.

18 Q. You understand that you are testifying  
19 under penalty of perjury; correct?

20 A. Yes.

21 Q. And you know that if you answer any of my  
22 questions, it will have to be verbal; correct?

23 A. I could not hear you.

24 Q. Any of your answers will have to be  
25 verbal. Yes and no.

1 A. Yes.

2 Q. So would you be able to ask me if you  
3 don't understand anything in my questions?

4 A. Yes.

5 Q. Because if you don't let me know, I  
6 assume you understand the question. Correct?

7 A. Yes.

8 Q. Anything about today that makes it a bad  
9 day to testify?

10 A. No.

11 Q. Ever been involved in litigation or any  
12 court action before as a party?

13 A. As a party. Yes.

14 Q. Can you explain, were you a defendant or  
15 were you a plaintiff?

16 A. I was plaintiff.

17 Q. What type of case?

18 A. Divorce.

19 Q. I really cannot hear you very well, so if  
20 you could keep up your voice, that would be great.

21 A. Divorce.

22 Q. Have you ever been deposed before as an  
23 expert?

24 A. Yes.

25 Q. How many times?

1 A. I'm not sure.

2 Q. Approximately.

3 A. A couple. Perhaps two, three, four.

4 Q. And when did that start, do you know?

5 When did you start being -- either  
6 testifying in court as an expert, the date. Do you  
7 have any time?

8 A. It would have been in the 00s, 2002 or  
9 '3, roughly.

10 Q. So since 2002 to today you have testified  
11 before the court two or three times?

12 A. Let me think for a minute, please.

13 Q. Sure.

14 MR. HAEFELE: Object to the form.

15 A. Twice that I can think of before a judge.

16 Q. (BY MR. MOHAMMEDI) Twice. Okay. Can we  
17 enter into exhibit 1 that is your -- that we sent to  
18 you? I'm not sure exactly the number that we want  
19 to start from.

20 (Winer Deposition Exhibit 895, Notice  
21 of Deposition of Jonathan M. Winer,  
22 was marked for identification.)

23 Q. (BY MR. MOHAMMEDI) Great. That's good.

24 Mr. Winer, have you seen this document?

25 A. I'm not sure.



1 Q. It's a notice for the deposition of  
2 today.

3 A. I know about the deposition. I'm not  
4 sure I've seen the document.

5 Q. You're not sure you've seen the document?  
6 If you could go to paragraph 5, it's  
7 highlighted for you. I can see it very well if you  
8 can just put it in the middle.

9 You have not seen this paragraph if you  
10 have not seen the deposition notice itself; correct?

11 A. I discussed it with counsel for the  
12 plaintiffs.

13 Q. Let me just -- I can see it well. I just  
14 want to get the field. Just bear with me a second.

15 And it says: At least seven days before  
16 the deposition, a copy of the witness's current  
17 curriculum vitae or resumé will have to be produced.

18 Do you have any updated resumé that you  
19 have to produce?

20 A. No, I have no updated resumé.

21 Q. And all documents are used to refresh the  
22 witness's recollection which you rely on in this  
23 testimony will have to be produced. Have you  
24 produced those documents?

25 MR. HAEFELE: Objection, Omar.

1 Q. (BY MR. MOHAMMEDI) Do you have them now  
2 with you?

3 A. I have my reliance materials with me, and  
4 I have my statement and my rebuttal report.

5 Q. So which document did you -- sorry, go  
6 ahead, I'm sorry. Go ahead.

7 MR. HAEFELE: Objection, form.

8 A. There are -- I don't really understand  
9 the question, sir.

10 Q. (BY MR. MOHAMMEDI) Which documents have  
11 you reviewed to refresh your recollection for this  
12 deposition?

13 MR. HAEFELE: Objection to form.

14 A. I've reviewed the 9/11 Commission report.  
15 I've reviewed my expert report. I reviewed the  
16 rebuttal report, I reviewed the writings of Thomas  
17 Hegghammer. I've reviewed some writings of Jonathan  
18 Benthall. I reviewed testimony or statements of  
19 al-Fadl, Jamal al-Fadl. I reviewed material from  
20 the UN. I reviewed material from the United States  
21 government, various designated of the United States  
22 government. Those are the principal things I  
23 recollect reviewing. All of this material is  
24 material that's within my reliance report to the  
25 best of my knowledge.

1 Q. (BY MR. MOHAMMEDI) Thank you very much.  
2 And we -- understand we -- your -- the counsel for  
3 plaintiffs submitted your invoices. Have you  
4 submitted invoices for preparation for this  
5 deposition after filing a report?

6 A. I have not.

7 Q. And will you be able to send us those  
8 invoices to plaintiffs for us to receive them?

9 A. My understanding is that the same process  
10 will be followed in that case, which is that the --  
11 it will be reviewed by counsel. They'll make  
12 whatever redactions the two sides have agreed upon,  
13 and then they will be provided to you in that  
14 manner.

15 Q. Okay. Great. Thank you.

16 Now, I'd like to introduce exhibit 2, and  
17 exhibit 3, which is Mr. Winer's report and rebuttal  
18 report.

19 (Winer Deposition Exhibit 896, Expert  
20 Report of Jonathan M. Winer, was  
21 marked for identification.)

22 (Winer Deposition Exhibit 897,  
23 Rebuttal Report of Jonathan M. Winer,  
24 was marked for identification.)

25 MR. HAEFELE: Omar, just to be clear,

1           you're talking about introducing 896 and 897.

2                   MR. MOHAMMEDI:   Yes.   Yeah, I'm  
3           speaking to the reporter, because that's how  
4           we submitted them.   They're going to mention  
5           the number for the exhibit.

6                   MR. HAEFELE:   Which is all fine to  
7           communicate to get it up on the screen.   I  
8           just want to keep the record straight in terms  
9           of what we're going to -- how we're going to  
10          find it later on.

11                  MR. MOHAMMEDI:   So the report,  
12          Exhibit 896; correct?

13                  TRIAL TECHNICIAN:   Correct.

14                  MR. MOHAMMEDI:   And then 897 is the  
15          rebuttal?

16                  TRIAL TECHNICIAN:   Correct.

17          Q.       (BY MR. MOHAMMEDI)   Mr. Winer, do you  
18          have that report with you?

19          A.       Yes.

20          Q.       And you printed them out and you have  
21          them in front of you?

22          A.       Yes.

23          Q.       If you go to page 3 of your report, which  
24          is 896, and this paragraph 1.1.   And you state that  
25          I -- and I quote:   Motley Rice hired me to render my

1 expert opinions on questions related to the  
2 involvement of charities in international terrorism  
3 finance into the period leading up to the 9/11  
4 attacks.

5 Is that a fair statement?

6 A. Yes.

7 Q. With whom did you meet at Motley Rice  
8 when you were retained?

9 A. I first had contact with Michael Elsner,  
10 and then I had contact with Robert Haeefe.

11 Q. I really, for some reason I can't hear  
12 very well, so I'm not sure if it's me, or if it's --

13 MR. HAEFELE: What he said was he met  
14 with Michael Elsner and Robert Haeefe.

15 MR. MOHAMMEDI: I think it would be  
16 good if I can hear it. That way we don't  
17 repeat over and over again. So it would be  
18 best if we can do that.

19 Q. (BY MR. MOHAMMEDI) When were you  
20 formally retained?

21 A. I believe it was December 2019.

22 Q. Did you provide other services prior to  
23 being formally retained?

24 A. No.

25 Q. Did you perform any services for

1 plaintiff in that advisory role?

2 A. No, but I would like to provide a further  
3 explanation.

4 Q. Sure. Go ahead.

5 A. In 2002 or 2003, I am not sure of the  
6 year, I was contacted by Mr. Elsner at Motley Rice.

7 MR. HAEFELE: Let me stop there. To  
8 the extent you have had communications with  
9 Motley Rice, that's not something that we're  
10 going to have you get into.

11 MR. MOHAMMEDI: That's not what --  
12 that's not -- Robert, I'd really like to make  
13 sure we are not going to stop every single  
14 question I ask. I'm not asking about the  
15 conversation. I'm asking about the contact.

16 MR. HAEFELE: Which is fine, I'm  
17 cautioning Mr. Winer not to get into the  
18 topics of the communication or the subject of  
19 the communication or the substance of the  
20 communication. He can talk to you that he met  
21 with, that he communicated with, that's all  
22 fine; but as you know, there is an agreement  
23 among the parties and I'm allowed to make sure  
24 that he doesn't do something or say something  
25 that violates that agreement. That's all.

1           You can ask questions about when and if and  
2           that sort of questions about the  
3           communication, but the substance we've  
4           agreed --

5                       MR. MOHAMMEDI: I'm not going to --  
6           no problem. Let's get to the question and the  
7           answer, because we don't have a lot of time.  
8           Go ahead, Mr. Winer.

9           A.       Ultimately, I did not provide services.

10          Q.       (BY MR. MOHAMMEDI) But you were  
11       contacted in 2003 and 2004?

12          A.       My testimony was and my memory is that it  
13       was either 2002 or 2003, but I'm not positive about  
14       the year.

15          Q.       And then in 2019 -- when did the  
16       communication started before you were retained in  
17       2019?

18          A.       December of 2019.

19          Q.       And you were retained in December 2019?

20          A.       Yes.

21          Q.       I assume -- it's a question that I --  
22       obviously we know, but did you prepare an expert  
23       report in this case?

24          A.       Yes.

25          Q.       Did you have any assistance in preparing

1 the report?

2 A. No.

3 Q. So all your writing and report in  
4 preparing for everything in this report was your  
5 work, no one else helped you with this?

6 A. I asked for materials from Motley Rice to  
7 assist me in the preparation of that report, and  
8 those materials were provided to me.

9 Q. What is your hourly rate for this case?

10 A. I am being compensated a rate of \$800 for  
11 a testimony and study in this case.

12 Q. Is that your normal hourly rate?

13 A. Yes.

14 Q. And how much time did you spend preparing  
15 for this report?

16 A. I don't recollect.

17 Q. Okay. Let me refresh your recollection.  
18 If you, reporter, if you can get exhibit 4 I sent,  
19 which will be exhibit, I believe, 898.

20 (Winer Deposition Exhibit 898,  
21 Invoices, was marked for  
22 identification.)

23 Q. (BY MR. MOHAMMEDI) That will be the  
24 invoices of Mr. Winer.

25 TRIAL TECHNICIAN: What number was



1           that marked as?

2                       MR. MOHAMMEDI:   Exhibit 4 that we  
3           sent you.

4                       TRIAL TECHNICIAN:   Okay.

5           Q.       (BY MR. MOHAMMEDI)   Are these the  
6   invoices that you sent to plaintiffs' lawyers in  
7   this case?

8           A.       That's the first invoice, yes.

9           Q.       When I looked at the invoice and totaled  
10   the number of hours that you put in before writing  
11   the report, I found that you spent about 40 hours,  
12   40.4 hours to review the documents or to prepare for  
13   your affirmative report.

14                   Does this sound accurate?

15          A.       I haven't totaled it up, so I don't know.

16          Q.       Okay.   So I assure you, I did that  
17   calculations.

18                   I also total 29.4 hours to review  
19   documents for the rebuttal.   Does it sound accurate?

20          A.       Again, I've not totaled up the amounts in  
21   that way.

22          Q.       All right.   So I did make that  
23   calculations for you, and I do have those as  
24   accurate for my own calculations.

25                   It took you approximately a week based on

1 eight hours a day to review the documents for your  
2 report if we do 40 hours -- 40.4 hours. That sound  
3 accurate?

4 MR. HAEFELE: Form and foundation.

5 Q. (BY MR. MOHAMMEDI) If you put in eight  
6 hours a day, it took you basically a week, right?  
7 Five days to review the documents in preparation for  
8 your --

9 MR. HAEFELE: Objection, form,  
10 foundation.

11 A. I'm seeing here the one page. I'll look  
12 at the other pages.

13 Q. (BY MR. MOHAMMEDI) There are many pages  
14 there.

15 A. What it says is research and drafting.  
16 So no, I don't agree with your premise, sir.

17 Q. All right. So I think -- research and  
18 drafting is different, and I see -- I'm just looking  
19 at the place where you said reviewed documents.

20 A. Yes.

21 Q. Okay. How many pages were in your  
22 affirmative report?

23 I think that 135; is that correct?

24 That's without the appendix, the resumé and reliance  
25 material.

1           A.     135 pages is correct.

2           Q.     And is that correct that your rebuttal  
3 was 66 pages?

4           A.     Yes.

5           Q.     Do you agree with me that this is a  
6 massive case, correct?

7           A.     Yes.

8           Q.     With massive documents; correct?

9           A.     Yes.

10          Q.     Massive documents produced?

11          A.     Yes.

12          Q.     This is for the finder to evaluate claims  
13 and defense in this case. Do you agree with me?

14          A.     Yes.

15          Q.     Did you choose which document to review  
16 and which document not to review?

17          A.     Yes.

18          Q.     Did the lawyers select documents for you  
19 to review?

20          A.     Yes and no.

21          Q.     What do you mean by yes and no?

22          A.     I was given an initial group of  
23 documents. After going through those documents, I  
24 asked for more documents. And that took place a  
25 couple of times.

1 Q. And that's from the time, I assume, that  
2 you start reviewing the documents to the time that  
3 you issued your final report; correct?

4 MR. HAEFELE: Objection to form.

5 A. Yes.

6 Q. (BY MR. MOHAMMEDI) Were any documents in  
7 Arabic?

8 A. There are no documents in Arabic that I  
9 have read. I don't read Arabic.

10 Q. Were there any documents translate -- I'm  
11 sorry.

12 A. There were documents in Arabic that were  
13 translated into English in which I had both English  
14 and Arabic language next to it. I am not able to  
15 determine whether the English was authentic to the  
16 Arabic, but they were still represented.

17 Q. Which documents did plaintiff give you to  
18 review?

19 MR. HAEFELE: Objection.

20 A. Please repeat --

21 Q. (BY MR. MOHAMMEDI) What documents did  
22 plaintiffs' lawyers give to you review?

23 A. The documents listed in my reliance  
24 report.

25 Q. So it is fair to assume that all the

1 document that your reliance materials are the ones  
2 that plaintiff gave you to review?

3 MR. HAEFELE: Objection to form,  
4 foundation.

5 A. It's my understanding that the materials  
6 in the reliance report were the materials that were  
7 provided to me, that's correct, plus additional  
8 materials that I found.

9 Q. (BY MR. MOHAMMEDI) And that includes the  
10 materials that were produced in this litigation; is  
11 that correct?

12 A. It does include some materials produced  
13 in this litigation, yes.

14 Q. And do you know how many materials were  
15 produced in this litigation?

16 A. I do not.

17 Q. So you have no idea how many documents  
18 were produced in this litigation?

19 A. It's not something that I have an opinion  
20 on it.

21 Q. Okay.

22 A. I can make no representations of fact as  
23 to how many documents have been produced in the  
24 litigation.

25 Q. Did you ask for that?

1           A.     I asked for -- to receive as much as  
2 possible given the amount of time that there was for  
3 me to prepare my report.

4           Q.     So you specifically asked to be given --  
5 that plaintiffs' lawyers will give you as many  
6 documents as possible to review to render your  
7 opinion?

8                     MR. HAEFELE:  Objection to form,  
9           misstates testimony.

10          A.     What I have stated in this deposition and  
11 am happy to restate is that I was given a lot of  
12 material initially.  After spending some extensive  
13 number of hours on that material, I requested  
14 additional material of various kinds.  I did that on  
15 more than one occasion.  I don't remember how many  
16 occasions.

17                     In addition, I asked for some academic  
18 materials that I needed to get quickly, that I  
19 understood the firm might have, which they were able  
20 to provide me.  An example of that might be a report  
21 by Mr. Benthall or Mr. Hegghammer.  Merely as  
22 examples.  I don't recollect precisely which reports  
23 those were, because once I had them, how I acquired  
24 them was not particularly important.  Their  
25 authenticity and accuracy, of course, was, but in an

1 academic report, it's clear where it came from.

2 Q. (BY MR. MOHAMMEDI) And claimed -- I  
3 mean, your reliance material lists all the documents  
4 which you reviewed were provided by plaintiff to  
5 you; correct?

6 A. Yes.

7 Q. So you have now charged for the report,  
8 the rebuttal report as I see it is \$303,581; is that  
9 correct?

10 A. I don't know.

11 Q. Okay. That says that.

12 How many hours did you spend with  
13 plaintiffs' lawyers in preparation for this  
14 deposition?

15 A. In preparation for this deposition?

16 Q. Correct.

17 A. Three to four.

18 Q. I'm sorry, can you say that again?

19 A. Three and a half to four. About three  
20 and a half.

21 Q. And how -- so three and a half hours.  
22 And that was only one meeting, two meetings? How  
23 many meetings were they?

24 A. Two meetings.

25 Q. Two meetings. And how many times did you

1 meet plaintiffs' lawyers in preparation for your  
2 report and rebuttal?

3 A. I met the attorneys on one occasion. I  
4 had discussions with the attorneys a few times.

5 Q. Okay.

6 A. The discussions were not lengthy.

7 Q. Have you ever testified on behalf of an  
8 accused of providing material support before?

9 A. No.

10 Q. Have you ever represented -- you are a  
11 lawyer; correct?

12 A. Yes.

13 Q. Have you ever represented any person who  
14 was accused of providing material support before?

15 A. Let me think about that question for a  
16 minute.

17 Q. Sure.

18 A. Not in a criminal case.

19 Q. In which aspect?

20 A. In the course of my work as an attorney,  
21 I have provided legal services to people who have  
22 been SDNs. That is sanctioned persons in  
23 institutions. And actually I'm going to correct  
24 that statement. I have provided legal services to a  
25 person accused of material support. I had forgotten



1 a matter in which I was involved in. Substantially  
2 involving a person who was accused of material  
3 support. So let me correct my statement on that.

4 Q. Can we know the case name?

5 A. No.

6 Q. Is it private?

7 A. It's --

8 Q. It's a public filed case, correct?

9 A. No. The matter in which I advised the  
10 person on was not in connection with a criminal  
11 case. It was in connection with a sanctions matter  
12 and it was a confidential legal representation and  
13 I'm not in a position to be able to tell you.

14 Q. Okay. So it's not the --

15 A. My ethical obligation as an attorney.

16 Q. I understand. It's not a court  
17 representation. It's before administrative  
18 proceedings; correct?

19 A. It was in connection with an OFAC matter.

20 Q. The Office of Foreign Asset Control  
21 matter; correct?

22 A. That's correct.

23 Q. And it's fair to say that you represent  
24 the people -- the people to delist them from being  
25 listed on OFAC; is that correct?

1 A. Yes.

2 Q. And how many cases did you handle, how  
3 did you take?

4 A. The last part of that sentence was what?

5 Q. How many cases? How many cases you took  
6 to represent the people who were listed before OFAC?

7 A. Oh, there are two that are in my mind  
8 right now, but there were probably -- there may be  
9 more, but there are two I can think of right now.

10 Q. And are they related to terrorism?

11 A. One was terrorist -- they were both  
12 related to terrorism, actually, yes.

13 Q. Okay. And what was the period?

14 A. This was during my legal practice at  
15 Alston & Bird, between 2000 and 2008.

16 Q. In your -- on your website, you state  
17 that after 2017 you represented people before OFAC;  
18 is that correct?

19 A. Yes.

20 Q. So it was not the only ones that you  
21 represent at that time.

22 A. Your question was about material support  
23 for terrorism, sir.

24 Q. So this was not related to material  
25 support to terrorism in 2017?

1           A.     No.

2           Q.     And they were before OFAC as well;  
3     correct?

4           A.     They're OFAC-related matters. Beyond  
5     that I can't say.

6           Q.     And the application was to delist them;  
7     correct?

8           A.     No.

9           Q.     What was the application?

10          A.     I can't provide you further information.

11          Q.     So you -- okay. Let me back up.

12                     The two cases that you took with -- were  
13     related to terrorism. Were there applications to  
14     delist your client from OFAC list?

15          A.     I can't provide you further information,  
16     sir, on the nature of those engagements.

17          Q.     This is not -- I mean -- no, this --  
18     we're not asking for private or confidential  
19     information. I'm asking for the specific question  
20     that it does not affect your confidentiality issue.  
21     Did you represent people before OFAC to delist them?

22          A.     Yes.

23          Q.     Okay. That's the only thing I need to  
24     know. Thank you.

25                     Have you ever been disqualified to

1     testify as an expert by court or ad -- on subjects?

2           A.     Disqualified, no.

3           Q.     So you were never disqualified as an  
4     expert in specific areas to -- as an expert?

5           A.     No.

6           Q.     Okay. Your firm provides legal service  
7     and expert witness services at the same time; is  
8     that correct presently?

9           A.     Yes.

10          Q.     How much money from your expert work you  
11     have received since 2019?

12          A.     I don't know.

13          Q.     How many cases have you had since?

14          A.     Two.

15          Q.     Two? Okay.

16                     You cannot give an estimate?

17          A.     No.

18          Q.     Okay. So which is the percentage of any  
19     income from expert work since 2019?

20          A.     I have not calculated it, sir.

21          Q.     You don't have a percentage?

22          A.     No, I do not.

23          Q.     So is it fair to say that your legal  
24     practice and expert practice are the same services  
25     that you consider in your law firm; correct?

1 MR. HAEFELE: Objection to form.

2 A. No, it's not correct.

3 Q. (BY MR. MOHAMMEDI) Isn't that true that  
4 your website says specifically you provide the  
5 services at the same time?

6 A. Yes, I provide legal services, I provide  
7 expert services, I provide consulting services.  
8 Those are not the same services.

9 Q. Okay. But you don't know the percentage  
10 of each work that you do for each areas of services?

11 A. No.

12 Q. Do you have anyone you know that was  
13 impacted by 9/11 or anyone you know, any family  
14 member, close friend, or coworker?

15 MR. HAEFELE: Objection to form.

16 A. Do you mean -- by "impact," do you mean  
17 killed?

18 Q. (BY MR. MOHAMMEDI) Killed or the loved  
19 one killed that you know, friends and families.

20 MR. HAEFELE: Objection to form.

21 A. I knew John O'Neill. I didn't know him  
22 well, but I knew John O'Neill. Other than that, no  
23 one I can think of.

24 Q. (BY MR. MOHAMMEDI) Do you have any  
25 personal relationship with any plaintiffs' lawyers

1     who hired you?

2             A.       No.

3                     MR. MOHAMMEDI:   Can I take two  
4             minutes break?   Just two minutes.

5                     MR. HAEFELE:    Sure.

6                     MR. MOHAMMEDI:   Thank you.

7                     THE VIDEOGRAPHER:  We're going to go  
8             off the record at 10:36 a.m.

9                     (Recess taken, 10:36 a.m. to  
10            10:37 a.m. EDT)

11                    THE VIDEOGRAPHER:  We're back on the  
12            record at 10:37 a.m.

13            Q.       (BY MR. MOHAMMEDI)  Mr. Winer, based on  
14            your affirmative report page -- paragraph 1.2,  
15            that's page 3 again.   So you rely -- I'm just asking  
16            again.   You relied on those exhibits -- on this  
17            reliance material to render your opinion, but beyond  
18            anything else, you have not relied on anything else;  
19            correct?

20                    MR. HAEFELE:    Objection to form.   And  
21            Mr. Mohammedi, just be careful, because you  
22            started before I was back in the room.   So  
23            good thing --

24                    MR. MOHAMMEDI:   Sorry.   Sorry,  
25            Robert.

1 MR. HAEFELE: But objection to form.

2 A. Well, in addition to this, I rely on my  
3 experience and my knowledge from my years in  
4 governance.

5 MR. MOHAMMEDI: If we enter  
6 Exhibit 5. Which will be Exhibit 899.

7 (Winer Deposition Exhibit 899,  
8 Jonathan Winer - Reliance Material  
9 Chart, was marked for  
10 identification.)

11 Q. (BY MR. MOHAMMEDI) We have here all your  
12 reliance material. And the question I have for you,  
13 did you review plaintiffs' other expert report in  
14 this case?

15 A. Could you repeat the question?

16 Q. Did you review plaintiffs' other expert  
17 report in this case?

18 MR. HAEFELE: Objection to form.

19 A. Did I review the other plaintiffs'  
20 experts' reports?

21 Q. (BY MR. MOHAMMEDI) Yes.

22 A. Is that the question?

23 Q. Yes.

24 A. Not prior to my preparation of my  
25 reports.

1 Q. When did you review them?

2 A. I reviewed -- the only other one that I  
3 recollect reviewing was Mr. Levitt's report, and I  
4 don't recollect when I reviewed it.

5 Q. And what about --

6 A. It was after the completion of my  
7 reports.

8 Q. What about the defense expert report?

9 A. I reviewed the defense expert reports  
10 discussed in my rebuttal report.

11 Q. And all of them?

12 A. The ones that I discussed. My  
13 understanding is there may be additional experts'  
14 reports which I did not review on the defendants'  
15 side.

16 Q. Sure. Now, the exhibit that we have  
17 before us, which is 899, did you prepare this chart?

18 A. No.

19 Q. You didn't prepare this chart.

20 Who prepared this chart for you?

21 A. The law firm of Motley Rice prepared the  
22 chart.

23 Q. Okay. And did you provide them the  
24 information for you to prepare the chart?

25 A. I provided them my report with all of its



1 citations. And in addition, they listed the  
2 material they provided me.

3 Q. Okay. Just as a follow-up question, you  
4 are not aware that -- how many pages the Assembly of  
5 Muslim Youth produced in this case, correct?

6 A. I do not know the number of pages that  
7 any entity produced in this case.

8 Q. Let me tell you how many pages Mr. -- I'm  
9 sorry, what the Assembly of Muslim Youth has  
10 produced. It's 1.264621 pages.

11 And that's WAMY Saudi Arabia.

12 And WAMY International produced 15,202  
13 pages of documents in this case.

14 Have you seen any of these?

15 MR. HAEFELE: Objection, form,  
16 foundation, misleading.

17 A. I've seen some of them. I've seen some  
18 audits. I have requested every bit of audit  
19 material.

20 Q. (BY MR. MOHAMMEDI) But audits were not  
21 listed in the affirmative report, were they?

22 A. They were not. I was not provided those  
23 at the time. I asked for them, and I got them  
24 later. And when I reviewed them, I then provided my  
25 analysis. But I wanted them from the beginning. I

1     wanted an audit and I did request them.

2             Q.     Is it fair to say that you did not review  
3     the audit before you produced your affirmative  
4     report; correct?

5             A.     My report itself says I did not.

6             Q.     Okay. And are you aware that Muslim  
7     World League produced over 700,000 pages of  
8     documents?

9                     MR. HAEFELE: Objection to form.

10            A.     I have stated and now repeat that I am  
11     not aware of the amount of documents produced by  
12     anyone involved in the case in terms of the numbers.

13            Q.     (BY MR. MOHAMMEDI) And it's fair to say  
14     that your affirmative report did not really rely  
15     mostly on the documents produced in this case;  
16     correct?

17                     MR. HAEFELE: Objection to form.

18            A.     I can't respond to that question with a  
19     yes or a no.

20            Q.     (BY MR. MOHAMMEDI) No, you can.

21            A.     It relied on the material that I've  
22     listed. I looked at every audit that I was able to  
23     get my hands on and the financial records associated  
24     with them. And I went through depositions of the  
25     officers of the defendants, for example, and sought

1 to consider as much information as I could within  
2 the time available.

3 Q. Yeah. It is fair to say it's over  
4 2 million pages of documents between -- let's say  
5 World Assembly Muslim Youth and Muslim World League,  
6 we will call it WAMY and MWL. So you have not  
7 reviewed the over 2 million pages of documents that  
8 were produced by WAMY and Muslim World League;  
9 correct?

10 MR. HAEFELE: Objection to form.

11 A. It is correct that I have not reviewed  
12 2 million documents from anyone at any time in my  
13 life.

14 Q. (BY MR. MOHAMMEDI) I will direct you to  
15 page 6 and page 26 of your reliance material.

16 If -- there is the highlighted version  
17 there. If you see Exhibits 267, which was actually  
18 an exhibit to a deposition of WAMY, and there was a  
19 document there, says, WAMYSA0276804. Do you see  
20 that?

21 A. Yes.

22 Q. That's one of your reliance material;  
23 correct?

24 A. It's material that was available to me,  
25 which I considered. I considered as much as I could

1 of the material that was provided within the time  
2 that I had.

3 Q. But my question is, is this the one that  
4 you relied on?

5 A. You would have to show me the document,  
6 sir.

7 Q. No, I don't need to show you the  
8 document.

9 A. Well, then I can't tell you to what  
10 extent I considered it.

11 Q. I am relying on the reliance material  
12 that you produced and you said that those are the  
13 documents you relied on when you produced your  
14 report; correct?

15 MR. HAEFELE: Objection, badgering.

16 A. Those are the documents that were made  
17 available to me by the law firm and which I did my  
18 best to consider. I considered as much as I  
19 possibly could within the time allotted, within the  
20 time that I had to get the report done.

21 Q. (BY MR. MOHAMMEDI) Is this reliance  
22 material accurate?

23 A. The material that was available to me,  
24 it's accurate, yes.

25 Did I go through as much of it as I

1 could? Yes.

2 Q. I would direct you to page 26.

3 And then you list three other documents.

4 Two, actually, two other documents, not three.

5 Two other documents, WAMYSAE001084,

6 WAMYSAE0018088. Is that accurate?

7 A. That's what that document shows on

8 page 26, that's correct.

9 Q. Okay. So those are the documents that  
10 you list and relied on from WAMY production in your  
11 affirmative report; is that correct?

12 A. These are the documents included in the  
13 reliance material chart.

14 Q. Yes. Okay. Were there any documents  
15 outside the reliance material chart?

16 MR. HAEFELE: Objection to form.

17 A. I didn't hear the question, sir.

18 Q. (BY MR. MOHAMMEDI) You said those are  
19 the documents within the reliance chart. Are there  
20 any documents outside the reliance chart that you  
21 relied on that are not in the chart?

22 MR. HAEFELE: Objection to form.

23 A. Not that I'm aware of.

24 Q. (BY MR. MOHAMMEDI) Okay. In your --  
25 strike that.

1 Did you review all documents Dr. Sageman  
2 reviewed in his report?

3 MR. HAEFELE: Objection to form.  
4 Foundation.

5 A. I don't know. I can't say. I would have  
6 to look back at his report and look at each document  
7 to decide.

8 As mentioned, I'm not an Arabic reader.  
9 I don't remember whether any of his documents were  
10 in Arabic. And at this point, I don't remember  
11 every document he cited.

12 Q. (BY MR. MOHAMMEDI) It was very  
13 extensive, the document; is that correct?

14 MR. HAEFELE: Objection.

15 A. Mr. Sageman's report was very extensive.

16 Q. (BY MR. MOHAMMEDI) His reliance material  
17 was extensive as well; correct?

18 MR. HAEFELE: Objection to form.

19 A. I did not look at his reliance material.  
20 I can say that I found errors in his report.

21 Q. (BY MR. MOHAMMEDI) Did you review all  
22 document John Marks reviewed in preparation for the  
23 report?

24 MR. HAEFELE: Same objection.

25 A. I don't know.

1 Q. (BY MR. MOHAMMEDI) Did they submit  
2 reliance material, did they?

3 John Marks would submit his reliance  
4 material. Did you --

5 MR. HAEFELE: Object to the form.

6 Q. (BY MR. MOHAMMEDI) Did you review the  
7 reliance materials that John Marks submitted in his  
8 report?

9 MR. HAEFELE: Objection to form,  
10 foundation.

11 A. I reviewed all the audit material that  
12 was made available to me, and my conclusions about  
13 that audit material were provided in my rebuttal  
14 report.

15 Q. (BY MR. MOHAMMEDI) And is that fair to  
16 say, based on his statement in his report?

17 A. I looked at the statements in his report.  
18 I looked at the audit material. I asked if there  
19 was any additional audit material, and I expressed  
20 my concern that there was a lot of material that was  
21 still missing.

22 Q. Okay. Which questions relating to the  
23 involvement of charities in international terrorism  
24 finance in the period leading up to 9/11 attacks  
25 were you asked to opine on?

1                   This is -- as a matter of fact, this is a  
2   question you pose at the beginning of each numbered  
3   section in your report.

4                   MR. HAEFELE:  Objection to form.

5           A.     Speaking generally, and I can't speak  
6   with more precision than this, the sections four  
7   through 18 reflected the questions that I was asked  
8   to provide my opinion on.

9                   And I did my best to do that.

10          Q.     (BY MR. MOHAMMEDI)  So do those questions  
11   form the scope of you will be giving an opinion.  
12   Where does call for your opinion?

13          A.     Yes.

14          Q.     They will discover your opinion.  Okay.

15                   Who assigned you the topics?

16          A.     Motley Rice.  Mr. Haeefele.

17          Q.     Okay.  Did you write about any topics  
18   that were not assigned to you?

19                   MR. HAEFELE:  Objection to form.

20                   Don't answer that question.  You're getting  
21   into communications that are beyond what we've  
22   agreed that -- the parties have agreed --

23                   MR. MOHAMMEDI:  I'm not asking him to  
24   give me information, I'm asking him to say  
25   "yes" or "no."  The question is "yes" or "no."



1 MR. HAEFELE: I'm instructing him not  
2 to answer questions that relate to the  
3 communications that he's had with counsel for  
4 the plaintiffs.

5 MR. MOHAMMEDI: Robert, I am not  
6 going into the question of communication, I'm  
7 asking him --

8 MR. HAEFELE: You just asked him --

9 MR. MOHAMMEDI: If he relied, if he  
10 express opinion that were not assigned to him.  
11 And the question -- the answer, he just "yes"  
12 or "no."

13 MR. HAEFELE: All right. So the  
14 question, just so we're clear, the question is  
15 did you answer any questions that were not  
16 posed to you?

17 A. No. If that's the question, the answer  
18 is no.

19 Q. (BY MR. MOHAMMEDI) Okay. So are all of  
20 the opinions you expect to provide in this case set  
21 forth in your affirmative and rebuttal reports?

22 A. Those are the questions that I've been  
23 asked and those are the responses I've given, that's  
24 correct.

25 Q. And I think the question is a little

1 different. Are all of the opinions you provide in  
2 this case were set forth in your affirmative report  
3 as well as your rebuttal report?

4 MR. HAEFELE: Objection to form.

5 A. I reserved the right in both reports to  
6 provide additional responses as appropriate based on  
7 additional information that I learn. And I  
8 maintained that in, I believe, some formulation of  
9 that in each of the reports.

10 Q. (BY MR. MOHAMMEDI) Okay. I'm talking  
11 about your submission of the report. Those opinions  
12 are really the opinions that you express within your  
13 report at the time of submission of your report and  
14 your rebuttal report; correct?

15 MR. HAEFELE: Objection to form.

16 A. Yes.

17 Q. (BY MR. MOHAMMEDI) What areas are you  
18 testifying as an expert in this case?

19 MR. HAEFELE: Objection, form.

20 A. You're asking me to recapitulate the  
21 areas that I'm testifying about?

22 Q. (BY MR. MOHAMMEDI) Yes. Yes.

23 A. Al-Qaeda and its funding needs pre-9/11;  
24 Saudi Arabia as a source of funds for al-Qaeda  
25 terrorism to 9/11; charities as a source of funds

1 for al-Qaeda and terrorism to 9/11; the impact of  
2 the charities to build al-Qaeda's global strike  
3 capabilities.

4 Q. Are you reading from notes?

5 A. No.

6 Q. Okay. Go ahead.

7 A. I'm reading from the list of my section  
8 in the table of contents.

9 Q. Okay. No problem. Go ahead.

10 A. The role of training camps in building  
11 al-Qaeda capabilities; why charity records would not  
12 show al-Qaeda support; implications of financial  
13 accounting irregularities; al-Qaeda's use of  
14 charities for aligned terrorist groups; the role of  
15 the IIRO, MWL, and WAMY in material support of  
16 al-Qaeda.

17 No separation of purposes of funds used  
18 in material support; purpose of the 13224 executive  
19 order designation program; evidence the  
20 United States needs to designate a person or entity  
21 under executive order 13224; implications of  
22 nondesignation of a personal entity under that same  
23 order; implications of withdrawal of a designation  
24 under that order; and implications of nondesignation  
25 for withdrawal for UN program.

1 Q. Okay. So you are rendering your opinion  
2 with this type of expertise in this report. Is that  
3 what you're claiming? You are an expert in all  
4 these areas that you are rendering your opinion on?

5 A. I'm not claiming anything. I have  
6 rendered my opinion in these areas.

7 Q. As an expert?

8 A. As an expert in international financial  
9 crime and terrorist finance, including the area of  
10 charity abuse.

11 Q. Okay. So I'm just trying to understand  
12 your area of expertise in this case.

13 MR. HAEFELE: Objection to form. Is  
14 there a question there, Omar?

15 Q. (BY MR. MOHAMMEDI) Is there an area of  
16 expertise you have and you're rendering an opinion  
17 in this case?

18 MR. HAEFELE: Objection to form.

19 A. I have been studying and worked as a  
20 practitioner in counter transnational financial  
21 crime going back to the earliest phases of my career  
22 beginning in 1980 when I did my first money  
23 laundering case. That expertise included  
24 investigations of terrorist activity and terrorist  
25 finance when I worked in the United States Senate in

1 the 1980s; that included exposure to these issues  
2 continuously during the time that I was at the State  
3 Department from 1994 through 1999. So from the  
4 period of from 1985 to '99 while I was in the  
5 federal government, I was exposed -- 1985 to 1999 --

6 MR. MOHAMMEDI: Mr. Winer, I thought  
7 you were answering my question. We are going  
8 to go through those.

9 MR. HAEFELE: I'm going to object to  
10 the --

11 Q. (BY MR. MOHAMMEDI) My question is --

12 MR. HAEFELE: Omar, let me object to  
13 you interrupting and not letting him finish  
14 the answer to the question. I understand --

15 MR. MOHAMMEDI: I don't think he's --  
16 I don't think he's -- his answer is not  
17 responsive and I want to make sure I have a  
18 response.

19 MR. HAEFELE: All right. I just want  
20 the record --

21 MR. MOHAMMEDI: I am not asking  
22 him --

23 MR. HAEFELE: Omar, I just want the  
24 record --

25 MR. MOHAMMEDI: Listen, can you

1 not -- listen, this is my deposition, Robert.

2 MR. HAEFELE: I know it's your  
3 deposition, but it's my opportunity to make  
4 sure that he gets to answer the questions, and  
5 you can't interrupt.

6 MR. MOHAMMEDI: He is not answering  
7 the questions --

8 MR. HAEFELE: Omar, I'm just --

9 MR. MOHAMMEDI: He's not.

10 MR. HAEFELE: Omar, I'm just making a  
11 record. You can go on with your deposition.  
12 I'm just making a record.

13 MR. MOHAMMEDI: Okay. So I am -- I  
14 want to make sure we don't waste a lot of  
15 time. We are going through those. Sooner or  
16 later we'll go through them.

17 Q. (BY MR. MOHAMMEDI) My question is very  
18 specific: Which area of expertise you're opining in  
19 this case. That's it. You just need to tell me.  
20 And you hold yourself as an expert. Which area  
21 you're holding yourself as an expert in this case.

22 MR. HAEFELE: And what is what he --

23 MR. MOHAMMEDI: You gave me page 2.

24 MR. HAEFELE: Just for the record,  
25 that is what he was answering you, Omar, and

1           you interrupted.

2           Q.       (BY MR. MOHAMMEDI)   So anyway, this is  
3   the list of expertise you have provide -- you are  
4   providing in this case, correct, Mr. Winer?

5                   MR. HAEFELE:   Objection to form.

6           A.       Yes.

7           Q.       (BY MR. MOHAMMEDI)   Are you an academic?

8           A.       Yes.

9           Q.       Do you teach?

10          A.       Yes.

11          Q.       Where do you teach?

12          A.       I've taught at various times, courses at  
13   many different schools, Georgetown, George  
14   Washington, American University, Princeton, Harvard,  
15   NYU.  It's listed in my resumé, the various places  
16   that I've taught in my CV.

17          Q.       And --

18          A.       I also taught for many years at the Kent  
19   School operated by the CIA.  The CIA's Kent School,  
20   and was regularly teaching there throughout most of  
21   the 00s, most of the period from about 2000 to 2008.  
22   I am affiliated today with the Middle East  
23   Institute, where I regularly engage in various types  
24   of teaching.

25          Q.       Now, you -- you said that you taught many

1 places and you listed the universities and law  
2 schools I believe that you taught at. Where -- were  
3 those positions are permanent positions, are they  
4 adjunct professor positions, or they're just  
5 occasional lectures you're giving to those  
6 institutions?

7 MR. HAEFELE: Objection to form.

8 A. At the Kent School, my work was under  
9 contract. So that was regular and ongoing for the  
10 period of many years. I don't recollect precisely  
11 the number of years.

12 The other were -- teaching has been  
13 largely ad hoc, which is to say I've been invited to  
14 teach a seminar by another academic.

15 In 2017, I taught a student -- a group of  
16 students on transnational -- certain transnational  
17 criminal issues at the MacDill school and I was an  
18 adjunct faculty there at MacDill in Washington for a  
19 semester. So it's been a variety of different  
20 capacities. I have not been part of the regular  
21 faculty or adjunct faculty at any school, but you  
22 asked me the question, am I an academic. I am  
23 published in a number of academic journals.

24 Q. (BY MR. MOHAMMEDI) Okay. We'll get into  
25 that.



1                   So is it fair, you have not been a  
2   faculty of any academic institution. Is that fair  
3   to say?

4           A.     I have not been a resident faculty member  
5   of any institution. I am a nonresident scholar at  
6   this time and have been since 2017 at the Middle  
7   East Institute.

8           Q.     Are you a social scientist?

9           A.     I am an attorney. I did study some  
10   social science in law school.

11          Q.     But you are not a social scientist?

12          A.     I am not a Ph.D.

13          Q.     Are you a certified public accountant?

14          A.     No.

15          Q.     Are you a forensic accountant?

16          A.     No.

17          Q.     Are you certified fraud examiner?

18          A.     No.

19          Q.     Are you or have you been a member of the  
20   law enforcement?

21          A.     Have I been a member of law enforcement?

22          Q.     Law enforcement.

23          A.     I worked as a prosecutor at the beginning  
24   of my career.

25          Q.     But that's the -- that's the experience

1     that related to law enforcement that you are talking  
2     about, right?

3           A.     No, that's incorrect.

4           Q.     Okay. Go ahead.

5           A.     For six years I was the lead person at  
6     the United States Department of State, addressing  
7     international law enforcement issues. In that  
8     period I worked with U.S. law enforcement on a daily  
9     basis.

10          Q.     Were you yourself a member of law  
11     enforcement?

12                   MR. HAEFELE: Objection to form.

13          A.     Did I have the power to prosecute? I did  
14     not. Did I have the power to arrest? I did not. I  
15     was not a prosecutor or a police officer. Except  
16     early on when I did a -- when I did a money  
17     laundering prosecution.

18          Q.     (BY MR. MOHAMMEDI) Have you ever worked  
19     as an intelligence service analyst or agent?

20          A.     I have worked under contract for a U.S.  
21     government analytic agency for many, many years,  
22     providing both intelligence and analysis to that  
23     agency, as disclosed in my CV.

24          Q.     You testified that you are an expert in  
25     history of al-Qaeda; correct?

1           A.     I would have to look at precisely what  
2     their CV said.

3           Q.     Are you an expert in history of al-Qaeda?

4           A.     What is that? Omar, I didn't hear you.

5           Q.     Al-Qaeda. Are you an expert on history  
6     of al-Qaeda?

7           A.     In certain context, yes. I know enough  
8     about its activities Afghanistan, Bosnia, Chechnya,  
9     Sudan, Southeast Asia, and elsewhere to have  
10    familiarity with its activities.

11          Q.     How do you know that?

12          A.     I have some expertise in the area. I am  
13    not an Arabic reader, so there are things that are  
14    in Arabic, I'm sure, that would allow me to know  
15    more.

16          Q.     How do you -- how did you gain that  
17    expertise?

18          A.     When the United States government first  
19    became concerned about al-Qaeda in the 1990s, I was  
20    meeting regularly with Richard Clarke at the NSC who  
21    is the United States government's counterterrorism  
22    czar at the time. And I was dealing with the  
23    interrelated issue of international crime, and in  
24    particular international financial crime. And the  
25    two are inexorably intermingled, and the

1 United States was seeking that period of time, both  
2 to understand these phenomena and to begin to build  
3 capacity to combat them. And I had regular contact  
4 with Mr. Clarke and was working for him and with  
5 him, such as with Michael Sheehan, for example, and  
6 Rand Beers on these issues in the late 1990s and  
7 became aware of his concern.

8 Q. Okay. And is it fair to say those were  
9 within the policy scope?

10 MR. HAEFELE: Objection, form.

11 A. I'm not sure I understand the question.

12 Q. (BY MR. MOHAMMEDI) Were you dealing with  
13 this matter from a policy perspective?

14 A. Yes, but I also was trying to -- it was  
15 my job also to communicate to other countries about  
16 what we needed them to do and what capacities we  
17 needed. I did not do that, however, regarding  
18 al-Qaeda myself. I was aware that others were, but  
19 I was not.

20 Q. You were not. Okay. Have you ever  
21 studied terrorism in an academic setting?

22 A. I couldn't understand the question.

23 Q. Have you ever studied terrorism in any  
24 academic setting?

25 A. I have been asked to write about

1 terrorism by a number of academic publications and  
2 have done so. For example, International Institute  
3 For Strategic Studies.

4 Q. Mr. Winer, my question is not that. My  
5 question -- we're going to go through that, believe  
6 me.

7 MR. HAEFELE: Objection. Omar, can  
8 you not stop -- you cannot keep interrupting.

9 MR. MOHAMMEDI: If you're going to --  
10 stop interjecting, I'm going to call the  
11 Court.

12 MR. HAEFELE: You can call the Court.  
13 Because I will tell the Court that you keep  
14 interrupting the witness.

15 MR. MOHAMMEDI: Listen, Robert, I am  
16 not going to allow you, I am not -- you're  
17 harassing.

18 MR. HAEFELE: Omar, you have to let  
19 him finish the question.

20 MR. MOHAMMEDI: And now you will not  
21 allow me to conduct my deposition. I am  
22 really being respectful to the witness. I'm  
23 asking question and --

24 MR. HAEFELE: You are aren't doing a  
25 deposition. You are asking questions and then

1           you are permitting -- or not permitting the  
2           witness to answer the question. That's not a  
3           deposition. You have to let the answer  
4           proceed.

5                   MR. MOHAMMEDI: No, the question --  
6           the answer is not what I ask, was not  
7           responsive.

8                   MR. HAEFELE: Well, you don't get to  
9           say what the answer is.

10                  MR. MOHAMMEDI: Yes, I do. I do,  
11          Robert, but you get to stop obstructing this  
12          deposition, Robert.

13                  MR. HAEFELE: I am not. I am asking  
14          for the deposition to proceed.

15                  MR. MOHAMMEDI: You are disrupting  
16          this deposition, Robert, you need to stop.

17                  MR. HAEFELE: Omar, if you --

18                  MR. MOHAMMEDI: I'm going to call the  
19          judge.

20                  MR. HAEFELE: Please, I welcome it.  
21          I'm telling you, if you let the witness --

22                  MR. MOHAMMEDI: I -- I am not going  
23          to go through 13 hours having to deal with  
24          you, Robert, on this. I need to conduct my  
25          deposition --

1 MR. HAEFELE: Omar, I want you to  
2 conduct your deposition, but I want you to let  
3 the witness answer the question. That's all  
4 I'm asking.

5 MR. MOHAMMEDI: And the witness is  
6 not responsive. I will tell him he's not  
7 responsive.

8 MR. HAEFELE: You are interjected and  
9 you -- you asked a question -- Omar, you asked  
10 a question. What is your experience and then  
11 you wouldn't let him answer the question,  
12 which is exactly what you --

13 MR. MOHAMMEDI: Five minutes that we  
14 are talking. I'm going to add the five  
15 minutes of timing.

16 MR. HAEFELE: No. Omar, you have to  
17 let him answer the question.

18 MR. MOHAMMEDI: Can you stop -- court  
19 reporter, can you stop the time?

20 MR. HAEFELE: No. She can't.

21 MR. MOHAMMEDI: No. You can't. No,  
22 we are going to stop now.

23 MR. HAEFELE: Omar.

24 MR. MOHAMMEDI: I'm going to stop and  
25 we're going to discuss.

1 MR. HAEFELE: Let him answer the  
2 question.

3 MR. MOHAMMEDI: We take a five-minute  
4 break.

5 MR. HAEFELE: We'll take a break.  
6 That's fine. Omar, listen to what I'm saying.  
7 Listen to what I'm -- Omar, just listen to  
8 what I'm saying. I don't want to fight with  
9 you.

10 MR. MOHAMMEDI: Let me conduct my  
11 deposition, Robert.

12 THE VIDEOGRAPHER: We're going to go  
13 off the record at 11:09 a.m.

14 (Recess taken, 11:09 a.m. to  
15 11:22 a.m. EDT)

16 THE VIDEOGRAPHER: We are back on  
17 record at 11:22 a.m.

18 Q. (BY MR. MOHAMMEDI) Mr. Winer, have you  
19 ever interviewed members of al-Qaeda?

20 A. No.

21 Q. Do you have a field experience -- when  
22 I'm saying field experience -- before 9/11 including  
23 Afghanistan, Chechnya, Bosnia?

24 A. Not in those countries, no.

25 Q. Are you an expert on terrorism -- or



1 charities? Sorry.

2 A. I have done work in the field of  
3 charities now over -- since the late 1980s.

4 Q. In the McDonald versus TD Bank, you held  
5 yourself as an expert on interpretation application  
6 of Canadian banking laws; correct?

7 A. No.

8 Q. What did you hold yourself as an expert  
9 in?

10 A. My expertise was on international banking  
11 standards, including as they applied in Canada.

12 Q. So it is an application of Canadian  
13 banking law?

14 MR. HAEFELE: Objection, form.

15 Q. (BY MR. MOHAMMEDI) Is it?

16 A. My expertise was on the comparative law  
17 and the underlying international standards that were  
18 applicable in Canada and elsewhere. And  
19 understanding the obligations of banks.

20 MR. LEWIS: Court reporter, can you  
21 put the Exhibit 61 we sent you, which I think  
22 would be 900.

23 (Winer Deposition Exhibit 900,  
24 McDonald and Dickson v TD Bank  
25 citation, was marked for

1 identification.)

2 TRIAL TECHNICIAN: And you said 61?

3 MR. MOHAMMEDI: Yes.

4 Q. (BY MR. MOHAMMEDI) If you go --

5 Mr. Winer, if you go to page 32, 33 of this --

6 So it's McDonald versus TD Bank?

7 A. Yes.

8 Q. Right? And it's a trial testimony;

9 correct?

10 A. Yes.

11 Q. And in that exhibit, page 32, 33 -- I'm

12 trying to find here. It's note 167. Do you see

13 that?

14 A. Yes.

15 Q. What does it say?

16 A. Do you want me to read it to you?

17 Q. Yes, please.

18 A. Messrs. Winer and Delston are U.S.

19 attorneys. Mr. Winer has been referred to as a

20 leading architect of relevant laws, regulations, and

21 international standards addressing financial crime

22 and money laundering. He served as counsel and a

23 legislative assistant to U.S. Senator John Kerry

24 from 1985 to 1994, following which he was directly

25 involved in numerous international anti-money

1     laundering initiatives for the United States  
2     government. TD Bank objected to his testifying as  
3     an expert on matters concerning a Canadian bank  
4     since Mr. Winer is neither a banker nor a Canadian.  
5     At trial, I qualified him as an expert on  
6     international banking standards.

7           Q.     Okay. And then, so -- and then you go to  
8     same page, 169.

9                     It says: Despite qualifying them as  
10    experts -- referring to you and another expert named  
11    Delston -- were not qualified to provide opinion  
12    evidence regarding the interpretation or ... laws of  
13    Canada or Ontario. Indeed, they both acknowledged  
14    that they are not experts in Canadian banking  
15    practices and had no experience with the Canadian  
16    regulatory regime.

17          A.     That was her finding. I don't agree with  
18    her characterization of --

19          Q.     But that's the finding. That is the  
20    finding; correct?

21          A.     Yes.

22          Q.     And when you applied as an expert, you  
23    did apply as an expert in a Canadian regulatory  
24    regime, correct? And you were excluded?

25          A.     In part.

1 Q. And you were excluded?

2 A. No, I was not excluded.

3 Q. You were excluded in that portion;  
4 correct?

5 A. That's correct.

6 Q. Okay.

7 MR. MOHAMMEDI: Can you put  
8 Exhibit 62, which is 901?

9 (Winer Deposition Exhibit 901, Gill v  
10 Arab Bank Memorandum and Order, was  
11 marked for identification.)

12 Q. (BY MR. MOHAMMEDI) This is the case Gill  
13 versus Arab Bank. You remember you were hired an  
14 expert in this case; correct?

15 A. Yes.

16 Q. If you go to page 18, it says: Mr. Winer  
17 is qualified to testify as a rebuttal expert on U.S.  
18 banking terminology, standards, and practices. The  
19 witness's background will not prevent adequate  
20 cross-examination.

21 Mr. Winer is not -- is not qualified  
22 under Daubert and Rule 702 to opine as to Hamas's  
23 agenda or relationship with terrorist organizations.  
24 He will not be permitted to testify as to Hamas and  
25 its interaction with charitable organizations.

1 Did I read that correctly?

2 A. That's what that document says. I was  
3 not aware --

4 Q. It's a --

5 A. I was not --

6 Q. It's a court order, isn't it?

7 A. If you tell me -- say that it is. I've  
8 not seen this.

9 Q. It is a memorandum and order in the case  
10 11-CV-3706.

11 A. Okay.

12 Q. Okay? So is it fair to say that your  
13 areas of expertise in TD Bank was limited to U.S.  
14 banking, to -- I'm sorry, to international banking  
15 standards; correct?

16 MR. HAEFELE: Objection to the form.

17 A. The ruling was not to allow me to testify  
18 about Canadian law and regulations, but to tell --  
19 but to testify about the international standards as  
20 an expert, that is correct.

21 Q. (BY MR. MOHAMMEDI) And then the ruling  
22 in the other bank, you were excluded to testify as  
23 to Hamas and the charitable work; right?

24 MR. HAEFELE: Objection to form,  
25 foundation, and --

1 MR. MOHAMMEDI: Charities work.

2 A. That's what this document you've shown me  
3 says. This is the first time I've been aware of it.

4 Q. (BY MR. MOHAMMEDI) Okay. Are you an  
5 expert on charity financial reporting?

6 A. Am I an expert on charity for what, sir?

7 Q. Financial reporting.

8 A. I don't understand the question, sir.

9 Q. Are you an expert on issues related to  
10 financial reporting related to charities?

11 A. I've spent considerable time on that  
12 issue, sir, over some decades.

13 Q. And that's charity financial reporting  
14 you're talking about; correct?

15 A. I don't understand the national reporting  
16 element of your --

17 Q. Charities. Charities. I'm referring  
18 specifically to charities.

19 A. I understand the word charities. I don't  
20 understand what you mean by national reporting.

21 Q. Financial reporting. Not national, I'm  
22 sorry. I'm saying financial reporting.

23 A. Within the -- within some context, yes.  
24 Other contexts, probably not. It would depend upon  
25 the specific area that we're looking at.

1 I am an expert in financial crime and in  
2 the question of when inadequate disclosure creates  
3 opportunities for the abuse of charities. And I've  
4 been a proponent for many years of stronger  
5 reporting standards for charities, because of that  
6 concern, and testified before Congress some  
7 substantial number of years ago, I think in the 00s,  
8 on that issue.

9 Q. And do you do your own financial analysis  
10 of this reporting or do you use accountant or  
11 forensic accountant for that purpose?

12 A. It depends on the context in the case. I  
13 have been involved in a matter in which the  
14 attorneys involved in the matter retained an  
15 accounting firm to do the forensic accounting work,  
16 which we then assessed as -- in connection with an  
17 OFAC matter. And part of providing the terms of  
18 reference for the accounting firm, what we needed,  
19 what we needed to analyze and understand.

20 So for that purpose, I was an expert in  
21 order to assess what the U.S. government would  
22 require to provide certainty, enough certainty that  
23 there was no risk of terrorist findings to enable a  
24 person or entity to be delisted. When I was  
25 investigating BCCI in the 1980s, I spent extensive

1 time in direct analysis of financial records,  
2 records of BCCI, which included some records of its  
3 charities, and in interviewing witnesses about  
4 BCCI's charitable practices. BCCI was a bank that  
5 was run by a group of Pakistani bankers, funded and  
6 originated out of the Gulf States, and engaged in  
7 very substantial criminal wrongdoing including  
8 terrorist finance.

9 And in the course of that, I looked at a  
10 lot of documents myself and came to understand that  
11 charities in Pakistan at the time and in the Gulf  
12 states were not at that point required to provide  
13 documentary evidence of how they were spending their  
14 money and that they were generated with no controls.  
15 Bottom line, there were no controls. I was told  
16 this by one or more witnesses who I personally  
17 interviewed; and looked at documents, and there were  
18 certainly tens of thousands of pages of documents I  
19 looked at. Whether there were hundreds of  
20 thousands, I don't know, but it was certainly tens  
21 of thousands. It was probably not millions.

22 Q. And that was in 1993; correct?

23 A. No, that was before -- that was before  
24 then, the period leading up to 1993.

25 Q. So when was the date exactly?



1           A.     I don't know. It would --

2           Q.     But there was definitely before --

3           A.     Somewhere between the period of 1989 and  
4 1994.

5           Q.     '94. Okay.

6                     And you said that you relied on the  
7 forensic accountant and -- to run your expertise as  
8 far as assessment; correct?

9                     MR. HAEFELE: Objection to form.

10          A.     An attorney group that I was part of  
11 worked -- chose to retain a forensic accountant firm  
12 to assist us in reconstructing a record that would  
13 enable us to assess terrorist finance vulnerability  
14 and what additional practices would need to be put  
15 into place to correct those vulnerabilities in that  
16 particular case.

17          Q.     (BY MR. MOHAMMEDI) Was the case about  
18 terrorism finance?

19          A.     Yes.

20          Q.     Okay. And what type of terrorist finance  
21 are you talking about?

22          A.     I'm sorry, I don't understand the  
23 question.

24          Q.     It was a Middle Eastern finance or was  
25 it --

1 A. Yes.

2 Q. -- related to where?

3 A. Yes.

4 Q. Are you an expert on Islam?

5 A. I am not an expert on the doc --  
6 religious doctrine of any kind, except to the extent  
7 that it involves the political impact of different  
8 types of interpretations of religion when a religion  
9 is politicized into a political movement, where I  
10 have expertise.

11 So when you have a combination of foreign  
12 policy, security, and religion, that's an area that  
13 I have devoted some extensive work on over a long  
14 period of time.

15 And that is an area of expertise, yes.  
16 In the Middle East bureau, where I was from 2013 to  
17 2017, we were constantly dealing with -- within the  
18 bureau and I was personally -- the competing agendas  
19 of political Islam and various strands and strains  
20 of political Islam, including that in the Islamic  
21 state and al-Qaeda and other groups like Ansar  
22 al-Sharia. And that competing with -- Arab  
23 nationalism competing with states that would be  
24 modern unitarian states, competing with warlord and  
25 different types of rule in which pan-Islamic rule

1 was one of the strains, political strains that had  
2 all kinds of consequences for terrorism and  
3 terrorist risk, and having to understand the various  
4 strands of those was critically important to my  
5 work.

6 In that period in particular, while I was  
7 involved.

8 Q. (BY MR. MOHAMMEDI) But you are not an  
9 expert on Islamic terms of concept from a religious  
10 standpoint, are you?

11 MR. HAEFELE: Objection, form. Asked  
12 and answered.

13 A. I am not really -- I'm not willing to  
14 adopt your question as an answer. I'm happy to say  
15 again what my expertise is.

16 Q. (BY MR. MOHAMMEDI) Are you a religious  
17 expert? "Yes" or "no."

18 MR. HAEFELE: Objection to form.

19 Q. (BY MR. MOHAMMEDI) Are you a religious  
20 expert?

21 MR. HAEFELE: Still objection to  
22 form. It's the same question and he's  
23 answered.

24 A. I developed expertise in the political --

25 Q. (BY MR. MOHAMMEDI) I just say, are you a

1 religious expert? I mean, it's -- you already  
2 explained that. I'm just asking you are you a  
3 religious expert?

4 MR. HAEFELE: Omar, you keep asking  
5 and repeating the same answer he gave.

6 MR. MOHAMMEDI: He already answer a  
7 question that was not really what I was  
8 asking. I'm just asking if you are a  
9 religious expert.

10 A. I can answer it this way: My father was  
11 a medical researcher in cardiovascular disease and  
12 learned some fundamental principles in connection  
13 with the angiotensin system. He was an expert in  
14 that area. He was also a doctor. He was not an  
15 expert in glioblastoma. So if you're asking  
16 somebody are you an expert in medicine, well, yes,  
17 my father was a medical expert, a medical expert  
18 with certain areas of expertise.

19 I have certain areas of expertise. Am I  
20 a religious expert who spent my life on Islam,  
21 Christianity, Judaism, Buddhism, Bahaism, Sufism,  
22 the difference between Sunni and Shia, I have not  
23 spent my lifetime on it, although I could give you  
24 the basics of the Sunni/Shia split if it was of help  
25 to you. I could discuss when Wahhabism originated

1 and when the modern Salafi movement originated, and  
2 the fact that some people think its antecedents go  
3 back earlier and foundations for it earlier. I can  
4 talk about the relationship between Egypt and  
5 Saudi Arabia in competing for religious dominance.  
6 But does that make me an expert in religion? No.

7 MR. GOETZ: Objection, nonresponsive,  
8 move to strike.

9 Q. (BY MR. MOHAMMEDI) Do you hold yourself  
10 as a religious expert in this case?

11 MR. HAEFELE: Objection to form.

12 MR. MOHAMMEDI: Just answer this  
13 "yes" or "no."

14 MR. HAEFELE: Objection, you can't  
15 demand a "yes" or "no" answer.

16 MR. MOHAMMEDI: Robert, you can stop  
17 interjecting.

18 THE WITNESS: I believe I've answered  
19 the question.

20 Q. (BY MR. MOHAMMEDI) Are you an expert on  
21 religion in this case?

22 MR. HAEFELE: Objection to form,  
23 asked and answered multiple times.

24 A. I am expert on the political aspects of  
25 Islam and how it played out in the region in the

1 1980s, 1990s, and 00s.

2 Q. Are you an expert in Islamic terms and  
3 concepts?

4 A. I know about a few of them. Not all of  
5 them.

6 Q. Are you an expert --

7 Knowing is not an expert. Do you agree  
8 with me?

9 MR. HAEFELE: Objection to form,  
10 argumentative.

11 A. I think it's really up to others to  
12 determine the scope of my expertise. I felt  
13 comfortable and continue to feel comfortable  
14 answering questions that were posed to me in my  
15 expert report.

16 Q. (BY MR. MOHAMMEDI) Okay. Then we go to  
17 the next point.

18 (Reporter clarification.)

19 Q. (BY MR. MOHAMMEDI) Are you an expert on  
20 the Kingdom of Saudi Arabia history?

21 A. I know a fair amount about the Kingdom of  
22 Saudi Arabia. I dealt with issues relating to it  
23 every day in my last work, the state departments. I  
24 was not personally responsible for that  
25 relationship, but I was in meetings each morning

1     when I was in Washington to discuss the ins and outs  
2     of that relationship.

3                     And I'm familiar with the modern history  
4     of Saudi Arabia.

5             Q.     Have you ever been posted in  
6     Saudi Arabia?

7             A.     No.

8             Q.     Have you ever been posted anywhere in the  
9     Middle East pre-9/11 as U.S. representative?

10            A.     I'm sorry, please repeat the question.

11            Q.     Have you ever been posted anywhere in the  
12    Middle East pre-9-11 as a U.S. representative?

13            A.     I've undertaken missions in a variety of  
14    places in the Middle East. I have been posted in  
15    Washington. I've always been -- I've lived in  
16    Washington since 1985.

17            Q.     If we go to you -- as Exhibit 2, your CV  
18    and the experience and qualifications.

19                   MR. HAEFELE: Just for the record,  
20                   it's not Exhibit 2.

21                   MR. MOHAMMEDI: I'm sorry, I'm sorry.  
22                   Which exhibit, that CV and qualification.

23                   MR. HAEFELE: 896.

24                   Wait, do you want his CV or his  
25                   expert report?

1 MR. MOHAMMEDI: Both.

2 MR. HAEFELE: His expert report is  
3 896.

4 MR. MOHAMMEDI: Sorry about that.

5 Q. (BY MR. MOHAMMEDI) Did you gain  
6 experience in terrorist financing during the course  
7 of your undergrad studies?

8 A. In the course of my undergraduate  
9 studies?

10 Q. Correct.

11 A. No.

12 Q. What about your law school studies?

13 A. No.

14 Q. Do you have any additional degrees other  
15 than the two from Yale and NYU law school?

16 A. No.

17 Q. You were employed by the Department of  
18 State; correct?

19 A. Yes.

20 Q. And if you go to one -- that's 144 -- 141  
21 to 142. Right?

22 That's the type of experience you had at  
23 the State Department; right?

24 You were a deputy assistant secretary of  
25 state for international law from 1994 to 1999?



1 A. That's correct.

2 Q. Were you ever employed by the Department  
3 of Defense?

4 A. No.

5 Q. Were you ever employed by the Department  
6 of Treasury?

7 A. No.

8 Q. Were you ever employed by the Department  
9 of Justice?

10 A. No.

11 Yes, actually, I was. Sorry, was.

12 Q. So if you go to page 138.

13 A. Yeah, I was employed by the Department of  
14 Justice in 1980.

15 Q. Right. And you said that you were an  
16 associate while still in law school for the U.S.  
17 Attorney in Denver.

18 A. Yes.

19 Q. It was the training from the FBI and the  
20 office of the controller of the currency responsible  
21 for regulating U.S. banks.

22 Do you see that?

23 A. That's not on the page that's in front of  
24 me, but yes, it's correct.

25 Q. It is in page 138.

1 A. That's correct.

2 Q. What do you mean by associate while in  
3 law school?

4 A. I was a summer associate, where I spent  
5 the entire summer on one of the earliest money  
6 laundering cases in the United States.

7 Q. I don't believe the Department of Justice  
8 has summer associates. They have summer clerks;  
9 right?

10 A. I understood myself to be a summer  
11 associate, not a summer clerk.

12 Q. From what I see, United States office  
13 Department of Justice has clerks and interns, not  
14 summer associate.

15 A. What's the year of the document, sir,  
16 that you're reading from?

17 Q. Okay. If you go to --

18 A. Is it from 1980 or is it more current?

19 Q. So you are saying that you were an  
20 associate. You have an associate position at the  
21 time?

22 MR. HAEFELE: Objection to form.

23 Q. (BY MR. MOHAMMEDI) You were not a  
24 lawyer -- okay. Let me ask you another question.  
25 Were you a lawyer with the Department of Justice at

1 the time?

2 A. I was in law school. I was not -- did  
3 not have a law degree at that time.

4 Q. And what did you do?

5 MR. HAEFELE: Objection to form.

6 A. I worked with the -- John Sharkey  
7 comptroller of the currency and Tom Reardon of the  
8 FBI in preparing materials for a trial involving  
9 money laundering activity and fraud in the  
10 Caribbean. It was a cross-border crime, which  
11 introduced me to a number of concepts in money  
12 laundering and fraud. That's how I began my  
13 involvement in the skill.

14 Q. (BY MR. MOHAMMEDI) And you worked with  
15 Financial Action Task Force; correct?

16 A. Yes.

17 Q. Which is the Financial Action Task Force?

18 A. What is it? Is that the question?

19 Q. Yes.

20 A. The Financial Action Task Force was  
21 created in the meeting of the G7, I believe in 1989,  
22 in response in part to legislation that I worked on  
23 with Senator Kerry requiring the United States to  
24 negotiate what were then called Kerry agreements so  
25 that U.S. anti-money laundering laws, which were

1 still quite basic, would be adopted in other  
2 countries to avoid regulatory enforcement  
3 arbitration.

4 And the Bush administration did not want  
5 to negotiate bilateral agreements in that area, and  
6 what evolved was instead the Financial Action Task  
7 Force by a decision of the G7 in 1989.

8 Q. And at the time of its creation, did  
9 financial task force have any policies to combat  
10 terrorism financing in particular?

11 A. No.

12 Q. And the role was mostly related to policy  
13 matters; correct?

14 A. No.

15 Q. What is relate -- what was it related to?

16 A. It was a mechanism to develop  
17 international money laundering standards, which  
18 countries would then put into place to provide a  
19 foundation to combat money laundering and all forms  
20 of financial crime, essentially because money  
21 laundering involves disguising the actual uses of  
22 funds. So it applies to a very great range of  
23 felonies, of serious crimes. And the idea was to  
24 have it -- initially it was to combat drug  
25 trafficking only, but by 1996 it became modified

1 to -- a system to combat all forms of serious crime.

2 Q. Okay. And as a deputy assistant  
3 secretary of state for international law in 1984, on  
4 September 11, 1996 you testified before the House  
5 International Relations Committee; correct?

6 A. I don't recollect the date.

7 MR. MOHAMMEDI: Can you bring up  
8 Exhibit 6, which is 902, I believe. Right?

9 (Winer Deposition Exhibit 902, Cheap  
10 Flights to Nigeria, was marked for  
11 identification.)

12 TRIAL TECHNICIAN: That might take a  
13 second. That didn't come through --

14 MR. MOHAMMEDI: Can we go off record  
15 until you figure this out?

16 THE VIDEOGRAPHER: Going off the  
17 record. 11:50 a.m.

18 (Recess taken, 11:50 a.m. to  
19 11:51 a.m. EDT)

20 THE VIDEOGRAPHER: Back on the  
21 record. The time is 11:51 a.m.

22 Q. (BY MR. MOHAMMEDI) So in page 1 of that  
23 document, which is highlighted for you, in  
24 paragraph 3, is you -- you refer to your bureau's  
25 responsibility was to protect American citizens and

1 American businessmen from threats posed by  
2 international narcotics trafficking and crime;  
3 correct?

4 MR. HAEFELE: Omar, can you tell us  
5 what we're looking at?

6 MR. MOHAMMEDI: I just mentioned it.

7 MR. HAEFELE: I know, but can you  
8 tell us --

9 MR. MOHAMMEDI: It's here.

10 MR. HAEFELE: What is the document?  
11 I know you're highlighting something from a  
12 document; I don't know what the document is.

13 MR. MOHAMMEDI: I understand. At  
14 paragraph 3, the highlighted version of  
15 paragraph 3.

16 MR. HAEFELE: Of what -- what is the  
17 document you're highlighting?

18 MR. MOHAMMEDI: Okay, the document I  
19 mention is a Congressional testimony in 1996.

20 MR. HAEFELE: Thank you. I must have  
21 missed that. I apologize.

22 Q. (BY MR. MOHAMMEDI) Do you read that,  
23 Mr. Winer?

24 A. Yes. Would you like me to read it?

25 Q. I just read it to you. You agree with

1     that; right?

2           A.     Yes.

3           Q.     And your responsibility was for policy;  
4     correct?

5           A.     That was part of my responsibility, yes.

6           Q.     And there was nothing referencing to  
7     terrorism or terrorism financing, was there?

8           A.     That's correct.

9                   MR. HAEFELE:  Objection to the form.

10          A.     But let me simply --

11                  MR. MOHAMMEDI:  I don't have any  
12     question pending.

13                  MR. HAEFELE:  Let him finish the  
14     answer, Omar.

15          A.     At my bureau, given our responsibility,  
16     policy, and programs, the programs part got very  
17     operational.  So it's a mistake and inaccurate to  
18     state that it's limited to policy only.

19          Q.     (BY MR. MOHAMMEDI)  But it's a relate --  
20     it's not related to anything about terrorism;  
21     correct?

22          A.     That's correct.

23                  MR. HAEFELE:  Objection to form.

24          A.     That statement is not related to anything  
25     about terrorism.  The hearing was on Nigerian crime.

1 MR. HAEFELE: Omar, what's on the  
2 screen, is it Exhibit 902?

3 MR. MOHAMMEDI: Yes.

4 MR. HAEFELE: Okay.

5 Q. (BY MR. MOHAMMEDI) All right. So let's  
6 go -- in 1999 -- we can take this off screen.

7 In 1999, you return to private legal  
8 practice; correct?

9 A. Yes.

10 Q. And it was from 1999-2008; correct?

11 A. Correct.

12 Q. Did you gain any expertise in terrorism  
13 finance while engaged in private practice during  
14 that time?

15 A. Yes.

16 Q. Did you represent any Gulf state during  
17 this period?

18 A. No.

19 Q. And what type of expertise in terrorism  
20 finance did you gain during that time?

21 MR. HAEFELE: Objection to form.

22 A. As I've stated, I had developed broad  
23 experience in my work in the Senate initially, and  
24 then at the Department of State on cross-border  
25 financial crime, which includes frauds of every



1 kind. Money laundering of every kind.

2 And fraud and money laundering including  
3 terrorism. As mentioned, I first encountered the  
4 terrorism problem in my work for the subcommittee on  
5 Terrorism, Narcotics, and International Operations,  
6 organizations, I believe the subcommittee was  
7 called, in the years I was working for then-Senator  
8 John Kerry.

9 That expertise was the foundation for my  
10 understanding on terrorist finance. They also  
11 worked closely with Richard Clarke, who was the lead  
12 person in the U.S. government during the Clinton  
13 administration for dealing with terrorism, and  
14 chatted with him about it in the course of my work,  
15 which was directly adjacent and intersected with the  
16 work that was being undertaken on terrorism. My  
17 involvement was limited to an understanding that we  
18 needed to take on terrorist finance at the same time  
19 and that we had a growing problem associated with  
20 terrorist finance. This emerged fairly rather late  
21 in my time at the Department of State, '98, '99,  
22 with particular focus after the terrorist bombings  
23 of our embassies, which got everybody's attention at  
24 the State Department and caused people to broaden  
25 and deepen their focus on these issues.

1                   During this period of time, Mr. Clarke  
2   was quite frustrated with the response of the U.S.  
3   government to what he perceived as a tremendous  
4   threat. I was one of the people in the functional  
5   bureaus who he could talk with about the nature of  
6   the threat without getting push-back.

7                   The regional bureaus very often would  
8   push back when you were asking countries to do more.  
9   And the Middle East bureau, in this period of time,  
10   would push back sometimes.

11                  And so I got exposed to it in that  
12   period. When I went to Alston & Bird, after 9/11, I  
13   was reached out to by the United States Senate, by  
14   ABC News, by academic institutions, and participated  
15   in a number of seminars, conferences, and so on, on  
16   terrorism finance; and used that period of time to  
17   deepen my knowledge and research into the  
18   phenomenon. I also was retained by the  
19   United States government from a period of about 2000  
20   to a period of about 2008 to provide regular reports  
21   on countries relating to money laundering, terrorist  
22   finance, corruption, these countries'  
23   vulnerabilities, and these companies' capacities to  
24   deal with them.

25                  And so my study continued while I was

1 under contract to the United States government  
2 throughout that period.

3 Q. (BY MR. MOHAMMEDI) And that was from  
4 1999-2008; correct?

5 A. No, I believe it was 2000 to 2008, not  
6 1999.

7 Q. 2000. Because I think it says 1999.

8 A. I was at Alston & Bird from 19 -- the end  
9 of 1999 to 2008, but my work in this territory did  
10 not take place in 1999. I was there only two months  
11 in 1999, and that work began later.

12 Q. And, Mr. Winer, what percentage of your  
13 time would you estimate that was spent in counseling  
14 regarding terrorism finance for that period of time,  
15 which is from 2000-2008?

16 A. Could you please repeat the question.

17 Q. What percentage of your time would you  
18 estimate was spent on counseling regarding terrorism  
19 finance from 2000, 2008?

20 A. It's difficult for me to put a percentage  
21 on something I've never put a percentage on. I can  
22 tell you that I had a contract with the  
23 United States government, a series of contracts,  
24 which --

25 Q. How many? I'm sorry. How many

1 contracts?

2 A. I can't tell you how many. I can tell  
3 you how many years. They began in 2000 and  
4 continued through 2008. In which I was providing  
5 work regularly to the United States government  
6 throughout that period of time on this set of  
7 issues.

8 Q. And when you say, when you talk about  
9 2000, 2008, and you talk about your -- the contract,  
10 are those the clients that you were advising during  
11 that time?

12 A. I had private sector clients I provided  
13 advice to in connection with OFAC, and I had the  
14 government as a client providing analytic --  
15 academic or analytic work on country studies,  
16 principally, though it was not only country studies,  
17 of vulnerability to money laundering, vulnerability  
18 to terrorist finance. Their capacities to combat  
19 these phenomena. And what measures of performance  
20 might look like if they built greater capacity.

21 Q. And did you represent any charity itself  
22 in this -- during that time period?

23 A. Yes, as I've mentioned, I did.

24 Q. And was there --

25 A. As I've stated, I have, yes.

1 Q. And those are foreign charities or U.S.  
2 charities?

3 A. Both.

4 Q. And the foreign charities, which area  
5 of --

6 A. Middle East --

7 Q. -- the world that you were representing?

8 A. Middle East.

9 Q. Middle East mostly?

10 A. I can't -- you asked -- I talk about two  
11 cases involving OFAC. There's a third case which  
12 did not involve that, which involved a U.S. domestic  
13 charity which had other issues associated with  
14 financial documentation of its activities and  
15 investigated enforcement matters where I was  
16 providing advice.

17 Q. Did you represent any other government  
18 other than the U.S. government?

19 A. Let me think of what I did when. Yes,  
20 while I was at Alston & Bird, if that's the period  
21 we're talking about, I represented the government of  
22 Indonesia for a period.

23 Q. Indonesia. Any other government?

24 A. Later, I represented the government of  
25 Malaysia.

1 Q. If you can just list them for me, I'd  
2 really appreciate that, if you have the list.

3 A. I represented the governments of  
4 Indonesia. I don't know the exact year. I  
5 represented the government of Malaysia in roughly  
6 2009 or '10.

7 But again, I don't have these accurate.  
8 Indonesia would have been roughly 2005 or '6, but I  
9 don't recollect.

10 Q. Were any of those governments you  
11 represent before 9/11?

12 A. No.

13 Q. It was after 9/11?

14 A. Yes. And in Indonesia --

15 Let me wait until you ask a question.

16 Q. What type of representation you had for  
17 Indonesia and Malaysia in your practice?

18 A. Generally both -- both countries wanted  
19 to understand the U.S. government's major issues  
20 with them and to think about how to enhance their  
21 relationship with the United States. In connection  
22 with Indonesia, we provided legal advice on certain  
23 matters. And beyond that, I really can't get into  
24 that. Though separately I can say that I provided  
25 an analysis or critique of Indonesia's anti-money

1     laundering and antiterrorist laws and made  
2     recommendations on them. But that wasn't -- that  
3     was a separate engagement that I did pro bono in  
4     addition to the formal engagement.

5           Q.     Mr. Winer, every time you respond, you  
6     say money laundering and terrorism finance. Is it  
7     that every time you dealt with money laundering you  
8     dealt with the terrorism finances as well?

9           A.     I can't say every time, but after 9/11,  
10    in the work that I did for the U.S. government, it  
11    was, if not always, it was almost always.

12                As I said a few minutes ago, there were a  
13    few reports that I did for the United States  
14    government which were outside of the country  
15    analysis framework. The 100-plus reports that I  
16    did -- and it might have been 120, I don't remember  
17    the exact number. It tended to be about 20 a year,  
18    to the best of my memory -- were generally country  
19    reports, but they also asked me to look at things  
20    like global financial risk from derivatives, the  
21    money laundering and crime risk of internet  
22    gambling. So occasionally there would be specialist  
23    topics. But the country reports always included,  
24    the best of my memory, a charity finance department.

25           Q.     And were you responsible to get with

1 those, terrorism finance every time they deal with  
2 the money laundering?

3 A. I had a -- that was part of the criteria,  
4 the scope of the work that I was asked and answered  
5 to do the research and analysis of. That was the  
6 scope.

7 Q. Right. And that was mostly after 9/11;  
8 correct?

9 A. It was entirely after -- no, it was not  
10 entirely after. It began in 2000.

11 Q. 2000.

12 A. And prior to 9/11 is when it began. But,  
13 you know, the scope may have changed some between  
14 2000 and 2001, but I just don't recall.

15 Q. Okay. But is it every time you do money  
16 laundering, that was before nine -- after 9/11 you  
17 had to deal with the terrorism finance; correct?

18 A. Not every time. The country reports  
19 always did. I mean, for example, I was asked at one  
20 point by another component to the -- another  
21 contractor of the United States government to write  
22 a report on how money laundering works in China,  
23 with China, Hong Kong, and Taiwan, and that report  
24 did not include a terrorist finance component  
25 because it wasn't part of the scope. It included a



1 heavy focus on tax evasion, money laundering, and  
2 fraud.

3 MR. MOHAMMEDI: Reporter, can you put  
4 up Exhibit 7, which will be 903, I believe?

5 (Winer Deposition Exhibit 903, DRAFT  
6 transcript of McDonald v TD Bank  
7 hearing, was marked for  
8 identification.)

9 Q. (BY MR. MOHAMMEDI) And again, this is  
10 McDonald versus TD Bank, and this is a transcript of  
11 the trial testimony.

12 MR. HAEFELE: Just to be clear, Omar,  
13 you're representing that it's a transcript,  
14 the trial testimony, but the top of the  
15 document says it's not certified. It's a  
16 rough draft only.

17 MR. MOHAMMEDI: It's a rough draft  
18 only, yes.

19 MR. HAEFELE: So we can't take this  
20 as the final version.

21 MR. MOHAMMEDI: Okay. It is a rough  
22 draft. It is the trial testimony.

23 MR. HAEFELE: Just note my objection.

24 MR. MOHAMMEDI: Okay. I understand.

25 Q. (BY MR. MOHAMMEDI) If you go for like 7

1 to 25, the numbering, which is 3598, the page.

2 It's highlighted.

3 Do you want to -- I mean, you can read it  
4 to yourself, and I just have a few questions about  
5 it.

6 A. Sure.

7 [Document review.]

8 A. I've read it.

9 MR. MOHAMMEDI: Let me know when you  
10 finish.

11 A. I've finished.

12 Q. (BY MR. MOHAMMEDI) Okay. Great. Thank  
13 you.

14 So is it fair to say that you did not  
15 include the phrase terrorism finance risk in this  
16 testimony -- in this part of the testimony; right?

17 A. It wasn't relevant to this case, so I  
18 didn't mention it.

19 Q. So is it because it was not relevant that  
20 you did not mention it?

21 A. Yes.

22 Q. Okay. But it is -- this is about banking  
23 standard; correct?

24 A. Terrorist finance was entirely irrelevant  
25 to the scope of my testimony in that case.

1 Q. So you're saying because it was not  
2 relevant, even though it's banking standard,  
3 terrorism finance was not relevant?

4 A. Not to this particular case. It was  
5 about a Ponzi scheme and there was no terrorist  
6 finance involved.

7 Q. Okay. In -- yeah.

8 In exhibit, I think 896. Page 151, 152.

9 You referred that you teach terrorism  
10 finance to CIA analyst at Kent School from  
11 2002-2013; correct?

12 A. I don't think I said 2013. If that's --  
13 if it says it anywhere, that's not -- I don't think  
14 that's -- actually, let me think about that. Yes, I  
15 did. I taught all the way until I went back to...

16 That's correct. Yep.

17 Q. How many courses on terrorism finance did  
18 you teach to CIA analysts?

19 A. I don't remember.

20 Q. What was the duration of -- I mean, how  
21 many times a -- I would say what was the frequency  
22 of those lectures?

23 MR. HAEFELE: Objection to the form.

24 A. There were typically four a year, and  
25 they covered corruption, money laundering, terrorist

1 finance, that range of topics.

2 Q. (BY MR. MOHAMMEDI) Did you have any  
3 syllabus?

4 A. I did proposals to them and prepared  
5 presentations and that type of thing.

6 Q. So there was no syllabus for your  
7 lectures?

8 A. I don't understand the word syllabus in  
9 this connection.

10 Q. I teach in law school and whenever I  
11 teach -- I go to teach, I'll have syllabus for the  
12 duration of time during I teach, and people who  
13 teach in the -- I mean, obviously everyone who  
14 teach, they have syllabus, if it's a recognized  
15 and -- a teaching position?

16 MR. HAEFELE: Objection to the form.

17 A. I didn't have a syllabus.

18 Q. (BY MR. MOHAMMEDI) You didn't have a  
19 syllabus. Okay.

20 Those courses that you were teaching,  
21 were they in any way related to 9/11?

22 MR. HAEFELE: Object to the form.

23 A. Yes.

24 Q. (BY MR. MOHAMMEDI) Can you give me  
25 examples?

1           A.       Sure. I focused on Pakistan as a case  
2 study of the ways in which corruption played out in  
3 having very, very poor controls on the movement of  
4 money, and the terrorist problem, winding up being a  
5 destabilizing factor in India -- or in Pakistan over  
6 many, many years. That's the main thing that I  
7 remember about it. The evolution of Pakistani  
8 politics, including the impact of 9/11, which  
9 included the odd moment when money moved in, a  
10 substantial amounts of payments moved in after there  
11 was a crackdown, moved into the formal banking  
12 system. I remember that fact, for example, as being  
13 part of the discussion.

14                   And the need to understand integrity in  
15 systems versus corruption in systems, in the banking  
16 system, in the oversight banking mechanisms  
17 generally. That's my memory.

18           Q.       I see. If we can go to Exhibit 8.

19                   (Winer Deposition Exhibit 904,  
20 Jonathan M. Winer resume, was marked  
21 for identification.)

22           Q.       (BY MR. MOHAMMED) This is an exhibit of  
23 your resumé submitted to 2012 court filing in Gill  
24 versus Arab Bank.

25                   Is that correct?

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1 A. Mm-hmm.

2 Q. And you were hired as an expert in that  
3 case as well; correct?

4 A. Sure. Mm-hmm.

5 Q. On page 1, which you have, in the third  
6 sentence of the first paragraph, your 2000 resumé,  
7 you are talking about your experience as deputy U.S.  
8 assistant secretary of state law enforcement;  
9 correct?

10 A. Yes.

11 Q. You stated you serve as a principal  
12 policy-maker, as a principal policy-maker focused on  
13 a daily basis on international organized crime and  
14 financial crimes for the State Department, including  
15 money laundering, the systems used for terrorist  
16 finance, and mutual legal assistance and  
17 international cooperation against transnational  
18 threats such as crimes and terrorism; correct?

19 A. That's correct.

20 Q. In this resumé that you submitted in 2019  
21 at page 36 -- 136, sorry. 896 -- Exhibit 896,  
22 page 136. You kept the same wording; right? Except  
23 you changed the last phrase to handled oversight of  
24 U.S. law enforcement relation with many nations;  
25 correct?

1 A. Yes.

2 Q. How did the same experience come from  
3 hours of the policy maker focusing on mutual legal  
4 assistance and international cooperation to I  
5 handled oversight of law enforcement relations?

6 A. Both are true.

7 Q. But one was -- resumé was submitted in  
8 different cases, two different thing -- two  
9 different variation; correct?

10 A. Yes.

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) Why -- why are there  
13 two different variations of your resumé?

14 A. Well, probably because I thought of the  
15 fact in connection with this that I was also doing  
16 oversight of U.S. law enforcement relations. Is  
17 this one from the Canada case? Where is this one  
18 from? Is this my current one?

19 Q. This is not Canada case. This is the  
20 Gill versus Arab Bank.

21 A. This one -- which one? I have a few --

22 Q. The 2012 I showed you was the Gill versus  
23 Arab Bank.

24 A. Yeah. So I've also handled oversight of  
25 U.S. law enforcement relations with many nations.

1 It's a fact. It's true.

2 Q. So this -- you said -- just before you  
3 said, you said just because you were dealing with  
4 this issue here, that's why you added that. Is that  
5 correct? That was your testimony right before I  
6 asked you a question.

7 A. No, I said I added it because it's also  
8 true. I don't recollect, to be honest, why I added  
9 it. I probably just wanted it. But it's accurate.  
10 I can go into detail if you'd like detail.

11 Q. I'm just asking questions specifically  
12 about that. I'm not asking for detail. Thank you.

13 In your 2019 resume which you submitted  
14 in this case, the heading reads: Experience in U.S.  
15 Foreign Policy Sanctions and Terrorist Finance  
16 Process; correct?

17 A. Yes.

18 Q. And that's page 137.

19 In your 2012 resumé you wrote, during my  
20 six-year service as -- and let's go to page 2 of  
21 that exhibit.

22 A. Uh-huh.

23 Q. Exhibit 8, page 904.

24 I'm sorry, Exhibit 904 -- Exhibit 904,  
25 which is -- which we just have now, at page 2.



1                   You --

2                   MR. HAEFELE: And Omar, just to be  
3                   clear, Exhibit 904 is his --

4                   MR. MOHAMMEDI: This is the Gill  
5                   versus Arab Bank.

6                   MR. HAEFELE: CV -- the CV from the  
7                   Gill case.

8                   MR. MOHAMMEDI: Yes, that's 2012.

9           Q.       (BY MR. MOHAMMEDI) During my six-year --  
10           you state: During my six-year service as a U.S.  
11           Deputy Assistant Secretary of State, I met daily  
12           with other senior policy makers at the State  
13           Department to discuss foreign policy issues.  
14           Foreign policy issues. Again you mentioned: Issues  
15           involving the response of the U.S. government to  
16           foreign governments, officials, businesses, and  
17           persons involved in planning or carrying out  
18           criminal activity directed at the United States  
19           and/or its people.

20                   You see that, correct?

21           A.       Yes.

22           Q.       In the 2019 resumé that you submitted in  
23           896, page 137, the exact sentence appears in the  
24           same place except you add the phrase again:  
25           Including issues related to terrorism; correct?

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1           A.     Sure. Wasn't that the same? Okay? Is  
2     it not the same?

3           Q.     That's my question, I just wanted to make  
4     sure you confirmed that.

5                     During your --

6           A.     Yes, as I stated, after the bombings, the  
7     embassy bombings, we all had to incorporate the  
8     focus on terrorism.

9           Q.     During your six-year service as U.S.  
10    Deputy Assistant Secretary of State, did you chair  
11    any interagency meetings involving this and other  
12    U.S. agencies?

13          A.     Involving what and other U.S. agencies?

14          Q.     Any agencies. Did you chair for any U.S.  
15    agency that you were working with at the time?

16          A.     Yeah, many.

17          Q.     So you did chair many of those  
18    interagency meetings?

19          A.     Yes.

20          Q.     You know, that's the -- the previous  
21    resumé, which you submitted in Arab Bank, you did  
22    not say that; correct?

23          A.     Maybe not.

24          Q.     Okay.

25          A.     Yeah, I was deputized by Dick Clarke at

1 the NSC to get the whole U.S. government going to  
2 deal with the international financial crimes bureau  
3 in that period.

4 Q. Okay. In your 2019 resumé and the  
5 earlier experience, which is page 138 of  
6 Exhibit 196, you wrote about the Senate report drug  
7 law enforcement and foreign policy: The Senate  
8 report analyzed cases in which U.S. foreign policy  
9 interests were preventing the U.S. government from  
10 protecting U.S. citizens from injury for -- by  
11 foreign drug traffickers, arms traffickers,  
12 criminals, and terrorists.

13 Right?

14 A. Yes.

15 Q. Is that correct?

16 That sentence does not appear in your  
17 2012 resumé that was submitted in the Gill versus  
18 Arab Bank; correct?

19 A. I don't know.

20 Q. It does not. Okay.

21 Have you ever written a book?

22 A. I've written chapters of books.

23 Q. You have not written a book?

24 A. Chapters only.

25 Q. Prior to 9/11, did you publish any

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1 article or peer-reviewed journal on the subject of  
2 terrorism finance?

3 A. No.

4 Q. Prior to 9/11, did you publish any  
5 peer-reviewed books on the subject of terrorism  
6 finance, or chapters of the books, for that matter?

7 A. No.

8 Q. Have you ever authored any peer-reviewed  
9 article on al-Qaeda?

10 A. I'd have to go back and look at the  
11 articles that I wrote that were published in various  
12 academic places to determine how much it was about  
13 al-Qaeda. So I can't answer the question offhand.

14 Q. As you sit here, can you remember any --  
15 anything --

16 A. I was -- my writing, after 9/11, focused  
17 very broadly on what was needed to combat terrorist  
18 finance. Those were works that I was commissioned  
19 to do. The writing I did was the work that was  
20 commissioned.

21 Q. Okay. Have you ever authored any  
22 peer-reviewed article on Islamic terrorism?

23 A. Certainly, the writing that I've produced  
24 includes that topic. I'd have to go back and read  
25 all of the articles to be able to answer the

1 question at this point.

2 Q. Have you ever authored any peer-reviewed  
3 article on al-Qaeda finance and terrorism finance of  
4 facts of 9/11?

5 A. I'd have to go back again to the survival  
6 article that I wrote to the international -- it's  
7 the one that was published in the aftermath, but I  
8 wrote a bunch of things in that period of time which  
9 covered all these issues. But I have not gone back  
10 lately to look at them. So I'd have to go back and  
11 look at them to be able to answer your question as  
12 formulated.

13 Q. Okay.

14 A. I wrote a lot about those topics. What I  
15 put into those particular chapters of those books, I  
16 don't recollect. It tended to be largely focused on  
17 what was needed institutionally to address the gaps  
18 in regimes that were in place to combat terrorist  
19 finance. That was the major thing that I tended to  
20 write about. How much of that went into the  
21 individual case of al-Qaeda, I just don't recollect.

22 Q. Okay. Have you ever been accused of  
23 committing perjury?

24 A. In court?

25 Q. In general.

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1 A. Yes.

2 Q. Can you put Exhibit 9 --

3 A. No, I'd like -- I would like the  
4 opportunity to respond to that.

5 Q. Yes, we're going to go into it. Yes,  
6 we're going to.

7 (Winer Deposition Exhibit 905,  
8 Browder lawyer Jonathan Winer files  
9 perjured claims in Hermitage court  
10 case, was marked for identification.)

11 A. That's the one.

12 Q. (BY MR. MOHAMMEDI) That's the one,  
13 right?

14 A. Yeah.

15 Q. 905. Exhibit 905. You are aware of  
16 this, correct?

17 A. Yeah. It's outrageous. Absolutely  
18 outrageous.

19 The person making the charge is not an  
20 attorney. The person making the charge is not an  
21 expert.

22 Q. Okay. There's no question pending,  
23 Mr. Winer. I have not even asked you the question.

24 A. Yeah, it's outrageous.

25 Q. Yeah, let me just ask you the question.

1                   It is outrageous and I agree with you.

2    Its accusations are serious enough, especially an  
3    officer of the court such as yourself, that makes it  
4    outrageous; correct?

5                   MR. HAEFELE:   Objection to form.

6           A.     No.   What makes it outrageous is not only  
7    her defamatory statements, which are false, but  
8    her -- the whole writing style.   She's been  
9    attacking this particular company, Hermitage, for  
10   years, as Mr. Browder has gone about defending  
11   himself against the -- trying to preserve and  
12   protect the memory of his attorney, Sergei  
13   Magnitsky, who was killed in a Russian prison.   And  
14   Ms. Komisar decided to take the Russians' side.

15          Q.     (BY MR. MOHAMMEDI)   Right.

16          A.     And so her stuff is extremely prejudiced  
17   and she makes outrageous charges, and this is among  
18   the outrageous charges.

19          Q.     Ever demanded a retraction or correction?

20          A.     Beg your pardon?

21          Q.     Have you ever demanded a retraction or  
22   correction?

23          A.     This piece is on Ms. Komisar's blog.

24   It's a piece by her on her blog.   I know

25   Ms. Komisar.   There would be no --

1 Q. I'm just saying did you -- I mean, the  
2 question, have you demanded a retraction or  
3 correction?

4 MR. HAEFELE: Omar, again, you have  
5 to let him answer the question.

6 A. I considered a variety of steps and  
7 decided that doing anything would just draw more  
8 attention to this person and her vendetta, and  
9 therefore I did not.

10 Q. (BY MR. MOHAMMEDI) Have you ever  
11 initiated defamation or libel action against the  
12 author?

13 A. No.

14 Q. Let's go to -- if you can put in  
15 Exhibit 10.

16 (Winer Deposition Exhibit 906, Money  
17 Laundering Alert, was marked for  
18 identification.)

19 Q. (BY MR. MOHAMMEDI) Which is 906,  
20 correct? Is that 906?

21 MR. HAEFELE: Is this a new,  
22 uncertified version of the transcript?

23 MR. MOHAMMEDI: No, this is not -- I  
24 mean, this is sitting -- it is not.

25 MR. HAEFELE: Is it going back to the



1 earlier document?

2 MR. MOHAMMEDI: Let me just confirm,  
3 which is the exhibit. There doesn't seem --

4 MR. HAEFELE: That was 903, was the  
5 earlier rough of the trial testimony in  
6 McDonald.

7 Q. (BY MR. MOHAMMEDI) So you've put in --  
8 So the court reporter, Exhibit 10 has  
9 Exhibit 10 and Exhibit 10 A. This is what you put  
10 in, I think, as Exhibit 10 A. That we sent you.

11 MR. HAEFELE: So what are we putting  
12 this -- what exhibit number is this going to  
13 be for the purposes of our deposition?

14 MR. MOHAMMEDI: Yeah, we are just  
15 waiting to the court reporter to fix this.

16 TRIAL TECHNICIAN: It's not the court  
17 reporter. It's the trial tech. You have two  
18 tens. There's 10 A -- 10, a rough draft, day  
19 21, and 10, Money Laundering Alert.

20 MR. MOHAMMEDI: The Money Laundering  
21 Alert.

22 MR. HAEFELE: So is this now nine --

23 MR. MOHAMMEDI: We can't read this  
24 one, but I'm going to refer to the transcript  
25 that refers to it. And I'm sure that

1 Mr. Winer can answer questions about this and  
2 that is related with the case that, the TD  
3 Bank case and the official transcript that we  
4 have as an expert. And that was going to be  
5 where Mr. Winer, he was answering questions  
6 about this.

7 MR. HAEFELE: I have no idea what the  
8 exhibit is here.

9 MR. MOHAMMEDI: Okay. Let me just --  
10 let me just ask Mr. Winer the question and  
11 then can you object if you have any objection.

12 MR. HAEFELE: It's not a matter of  
13 objection, I'm just trying to keep the record  
14 straight as to what exhibits you're showing  
15 the witness.

16 MR. MOHAMMEDI: So can you put up --  
17 what exhibit is this?

18 (Reporter clarification.)

19 MR. HAEFELE: What was 905?

20 MR. MOHAMMEDI: That was the article  
21 that we just put it on before.

22 MR. HAEFELE: Okay. So this  
23 document, this Money Laundering Alert is 906?

24 MR. MOHAMMEDI: Right.

25 MR. HAEFELE: Thank you.

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1 Q. (BY MR. MOHAMMEDI) Mr. Winer, you are  
2 aware about this document; correct?

3 A. I remember the document.

4 Q. And you were cross-examined about this  
5 document in the McDonald's versus TD Bank; correct?

6 A. I think that they brought it out, yes.

7 Q. And then this alert states: Winer,  
8 described by a former colleague as a conspiracy  
9 theorist, has experience in training  
10 uncorroborated allegations, later proved baseless  
11 about person in whom he develops an interest.

12 You remember that, correct?

13 A. Sure do.

14 Q. That's what it says.

15 A. Sure do. And I would like to be able to  
16 explain it.

17 Q. Go ahead.

18 A. Sure. This article was written by a  
19 publication published by a man named Charlie  
20 Intriago who was close to lawyers who were working  
21 for Alan Stanford, who presided over the second  
22 largest Ponzi scheme in North America history.

23 And I had focused on Antigua as a hotbed  
24 of Russian money laundering and other criminal  
25 activity and fraud. And Stanford had become in

1 charge of -- had taken over the regulatory agencies  
2 of the agencies that were regulating his bank, and  
3 the United States government was very upset about  
4 it. I was very upset about it. Officers from the  
5 Caribbean were very upset about it. And this was  
6 part of Stanford's counterattack. In an effort to  
7 smear me, by his henchmen, which was part of a  
8 coverup which lasted another bunch of years. Until  
9 finally Stanford's empire collapsed.

10 And so the person who I have the  
11 supposedly baseless conspiracy theory about, the  
12 underlying reference there fundamentally is -- was  
13 Stanford. And Stanford was engaged. Again he, he  
14 was not quite as big as Bernie Madoff, but the next  
15 one. And that's the background for that  
16 publication. The first time I saw it, I recognized  
17 it's a smear and knew where it came from.

18 Q. And it was referred by also Wall Street  
19 Journal; correct?

20 A. Well, that was another related Wall  
21 Street Journal article they referred to, yeah. But  
22 that's basically what was going on. It was an  
23 effort to smear me.

24 Q. Okay. But you were aware of this  
25 article, what it says about you; correct?

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1                   And you were aware before about this  
2   article, TD Bank cross-examination?

3           A.     I was cross-examined on it by TD Bank,  
4   that's correct.

5           Q.     Can you --

6           A.     I just told you what its origin was and  
7   why.

8           Q.     Okay.

9                   MR. MOHAMMEDI: Can we take a break?

10                  MR. HAEFELE: Sure.

11                  THE VIDEOGRAPHER: Going off the  
12   record. The time is 12:33 p.m.

13                  (Recess taken, 12:33 p.m. to  
14   12:46 p.m. EDT)

15                  THE VIDEOGRAPHER: We are back on the  
16   record at 12:46 p.m.

17           Q.     (BY MR. MOHAMMEDI) Mr. Winer, have you  
18   ever been a -- have you ever appeared before 9/11  
19   Commission as a former government official?

20           A.     No.

21           Q.     Did the Commission refer to you as a  
22   contributor to the report?

23           A.     No.

24           Q.     What is your methodology?

25                  MR. HAEFELE: Objection to the form.

1           A.       When I'm asked a question, as an expert,  
2   I draw on my own personal experience in the field,  
3   and the -- whatever period of time that I worked on  
4   an issue directly when I was in the government, I  
5   draw on my experience as a practitioner, as a  
6   lawyer, in which I -- when I've been exposed to  
7   clients with issues in that area, and my study of  
8   the law and my past study of facts. I draw upon, as  
9   well, analysis and academic work that I've  
10  undertaken in the past and the research I did in  
11  connection with that.

12                I look at primary source information when  
13  it's available. So Jamal al-Fadl, for example,  
14  Mr. Ahmad, would both be examples of first-hand  
15  information. There's also -- can be first-hand  
16  information in newspaper reports when you have  
17  contemporaneous interviews or quotes from  
18  individuals, and I will use that as well.

19                I rely on government reports, both from  
20  the United States and sometimes from other  
21  governments. I rely on UN reports and other  
22  official reports, because based on my experience,  
23  those are typically based on a tremendous amount of  
24  work, which often is documented; it's not always  
25  explicitly documented.

1                   So what I try to do -- and this is --  
2    this was how I went about my work for the U.S.  
3    government from 2000 to 2008, when I was doing the  
4    analytic work I discussed with you. It's  
5    essentially an all-source approach in which you take  
6    as many sources as you can and then weigh the  
7    sources and bring them together to form your  
8    analytic findings on a topic. And so it's really I  
9    try and take advantage of the work that's been done  
10   by others, as much first-hand information as I can  
11   get my hands on, and analyze and assess it and bring  
12   human reason to bear upon it.

13           Q.       (BY MR. MOHAMMEDI) Do you apply any  
14   scientific and social science methodology?

15           A.       I think I have just described the  
16   methodology that I apply. And I'm not sure  
17   precisely what type of information you're looking  
18   for. Is it statistical information?

19           Q.       You are the expert here. I guess you  
20   will explain to me how you -- how you reach your  
21   opinion by applying scientific and social science  
22   methodology.

23                   MR. HAEFELE: Objection to form.

24           A.       As I've just described, I take primary  
25   source material, which is capable of being read, and

1 then of being further validated or invalidated.

2 For example, an audit, which contains  
3 statements that says we did no checking in the  
4 field, we had to rely on assurances. That is a  
5 factual statement. That provides information that  
6 is hopefully contemporaneous about what was and what  
7 wasn't done. So a scientific approach to that set  
8 compares that against an audit which did not contain  
9 those caveats.

10 And so you compare the audits against one  
11 another, look at what the international standards  
12 are, and apply the facts contained in the  
13 information, which is a mixture of primary source  
14 information, information that can be a combination  
15 of primary and secondary, plus others' academic  
16 research together with one's own experience and  
17 one's own interviews, and you put that together and  
18 come to your opinions.

19 That's the approach that I took in the  
20 many years that I did the work for the U.S.  
21 government, and that's the approach that I've taken  
22 when I've been an expert.

23 Q. (BY MR. MOHAMMEDI) Do you use your  
24 methodology by applying all facts to you available,  
25 either helpful or not helpful to reach a conclusion?



1 A. Yes, I do.

2 Q. You do? Okay. And when you mentioned  
3 the primary sources, obviously primary sources can  
4 be in the form of document produced in a case;  
5 correct?

6 A. Yes.

7 Q. And then if you provide your  
8 information -- your opinion by not reviewing the  
9 documents in the case, would you consider that a  
10 complete conclusion?

11 MR. HAEFELE: Form.

12 A. You told me that there were millions of  
13 pages of materials produced in this case. That's my  
14 understanding. Is there anything that you would  
15 have to correct that understanding or is that  
16 correct? There were millions of documents produced  
17 in this case?

18 Q. (BY MR. MOHAMMEDI) Yes, I did.

19 A. I don't know how I or any other human  
20 being who is an expert witness could review millions  
21 of pages of documents in the case. There wouldn't  
22 be enough time in a year to do that. There wouldn't  
23 be enough time maybe in five years or ten years for  
24 one person to do that. So that cannot be what's  
25 required of an expert.

1                   What I did was I looked at, in light of  
2   my own experience and knowledge, which included the  
3   academic analytic work that I did for the U.S.  
4   government, as well as my own tenure working for the  
5   Senate and my two tenures at the State Department,  
6   and the work that I've done on behalf of clients, I  
7   looked at the materials provided to me by the  
8   attorneys in this case, supplemented it with  
9   additional research into the secondary literature of  
10  some scholars, who I cite in my reliance material,  
11  and that's how I came to my formulations.

12                  When there was first-hand information  
13  that I thought was particularly relevant, I looked  
14  at it. And when I didn't have it, I asked for more  
15  of it. A particular case of that is there were  
16  representations about the extent of audits. I  
17  wanted every audit that I could get my hands on.  
18  The more, the better, because that's primary source  
19  information that's very important to me.

20           Q.     So let's make it clear on the record that  
21  the audit you're referring to are not in your  
22  affirmative report. Right?

23           A.     Yes.

24           Q.     Let's also --

25           A.     Excuse me, the audits for WAMY were not

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1 in my affirmative report. There were some IIRO  
2 audits. I asked for them and I wanted them. I got  
3 more audits from my rebuttal report and then  
4 analyzed those.

5 Q. And let's make it clear that the reliance  
6 materials that you have, the documents produced in  
7 this -- the documents produced in this case were  
8 given to you by plaintiffs' attorneys; correct?

9 A. Most of them were, or many of them were.  
10 I supplemented as best I could with additional  
11 research when I felt that additional research that I  
12 was able to get in the limited amount of time that I  
13 had between the time of my retention and the time  
14 that my report was due, I would supplement.

15 Q. In your prior testimony, you stated those  
16 are the documents that you relied on in rendering  
17 your opinion in your affirmative report, correct?

18 A. Yes.

19 Q. The index. Okay. If an allegation  
20 appears in a government document in your  
21 methodology, do you accept the fact -- accept it as  
22 a fact or do you do anything to attempt to  
23 corroborate or dispel fact assertions?

24 MR. HAEFELE: Objection to form.

25 A. That's a very broad category, government

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1 documents. It really depends on the government  
2 documents and the use for which I'm putting the  
3 government document. So it depends on the  
4 government's document, the amount of weight. It  
5 also depends what kind of experience I have with a  
6 particular government agency or entity that's  
7 issuing the report and the nature of the work that's  
8 likely to be behind the report.

9 So it depends.

10 Q. (BY MR. MOHAMMEDI) For instance, the CIA  
11 report, do you rely -- do you use that as a document  
12 as a fact or do you do your independent  
13 investigation of the facts in the CIA report?

14 A. Are you talking about --

15 MR. HAEFELE: Objection to form.

16 A. Are you talking about the 1996 report?

17 Q. (BY MR. MOHAMMEDI) I'm speaking about  
18 the CIA report.

19 MR. HAEFELE: Objection to form.

20 THE WITNESS: Which CIA report are  
21 you referring to, sir?

22 Q. (BY MR. MOHAMMEDI) I'm just saying a CIA  
23 report that is issued. Any CIA report related to  
24 terrorists, let's give -- that's have an example,  
25 1996.

1 MR. HAEFELE: Objection to form.

2 Q. (BY MR. MOHAMMEDI) Do you use that as a  
3 fact or you corroborate the information in the --  
4 did you corroborate the information in the 1996?

5 MR. HAEFELE: Form.

6 A. I looked at that report in the context of  
7 everything else that I know about terrorist finance.  
8 I look at that report in the context of what I was  
9 hearing about terrorist finance in the last years of  
10 the Clinton administration, which is consistent with  
11 that report. I look at it with a continued  
12 expression of concern about some of the entities  
13 listed in the report by the United States government  
14 all the way up to and including two thousand --  
15 December 2009. I look at it in connection with the  
16 academic research in findings of a number of  
17 different academic researchers. I look at it in  
18 connection with the findings of the 9/11 Commission.  
19 And so I weigh it with a lot of other material.

20 But I do find the 1996 CIA report to be  
21 prescient and to reflect the concerns that the  
22 United States government was having in that period  
23 of time, of 1996, in which it began to formulate a  
24 lot of concern about al-Qaeda and terrorism in  
25 connection with support for conflicts in connection

1 with us, in a charitable support for conflicts in  
2 what I would call ABC, which is Afghanistan first,  
3 Bosnia, and Chechnya. And as that concern began to  
4 emerge, this report reflected, I believe, that  
5 concern. So I give that report substantial weight.

6 Q. (BY MR. MOHAMMEDI) Okay. And which is  
7 the standard for concern in your opinion?

8 MR. HAEFELE: Objection, form.

9 A. Beg your pardon?

10 Q. (BY MR. MOHAMMEDI) What is the standard  
11 of concern that you keep mentioning?

12 MR. HAEFELE: Form.

13 Q. (BY MR. MOHAMMEDI) Is there a standard  
14 of concern?

15 A. When the United States government says  
16 it's concerned about something, in a formal  
17 diplomatic cable, for example, or expresses it  
18 publicly to another government, that's often -- it's  
19 not always, but often a term that's used to indicate  
20 a démarche. A démarche is a communication from the  
21 United States government to a foreign government  
22 saying, in effect, we have a problem that we need to  
23 discuss with you. We're concerned about this. We  
24 need to have steps taken. So it is expressing a  
25 sense that there is a problem, and that concern can

1 be from a mild concern to a moderate concern to a  
2 serious concern.

3 In the last half of the 1990s, terrorism  
4 associated with areas of Muslim and non-Muslim  
5 conflict and the growth of al-Qaeda were both things  
6 that were becoming of increased concern to the  
7 United States government as a matter of national  
8 security and a particular concern for Richard  
9 Clarke, who was my mentor in this period of time.

10 Q. I get to -- I don't think you have  
11 provided the standard of concern that I'm asking  
12 you, but that's fine. We can move on.

13 MR. HAEFELE: Let me just object one  
14 more time to the cutting off the witness  
15 before he answers his questions.

16 A. As I've tried to express, the term  
17 concern can mean many things, but typically,  
18 typically its meaning in this kind of a context,  
19 when the U.S. government official says something is  
20 of concern, or continuing concern, it's a -- it  
21 involves a communication to another government.  
22 There was not an internal communication within the  
23 government to démarche the other government about  
24 its concern. And in connection with the three  
25 defendants in this case, the United States

1 government was still expressing concern as late as  
2 December 2009 based on primary source documents that  
3 I reviewed.

4 Q. (BY MR. MOHAMMEDI) Which primary source  
5 are you referring?

6 A. I'm referring to a U.S. Department of  
7 State cable from 2009 -- might have been 2008 -- no,  
8 it was 2009, December 2009, I believe. If it's not  
9 that, it's 2008, but I think it's 2009, regarding  
10 WAMY, Muslim World League, IIRO, which is -- the  
11 same entities which the United States government has  
12 been expressing concern about publicly as well as  
13 privately in various statements throughout the 00s.

14 Q. I get your answer. Let's -- let me ask  
15 another question.

16 MR. HAEFELE: Same objection as  
17 earlier, cutting the witness off.

18 MR. MOHAMMEDI: I am not cutting off  
19 the witness. I think the witness is going on  
20 and on and on and is not answering my  
21 questions. And it's fine. We just need to  
22 move on.

23 Q. (BY MR. MOHAMMEDI) In Diaz versus -- and  
24 now it's U.S. versus Arnaout case. You rendered an  
25 opinion on that, correct? Do you remember that?



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1 A. You have to bring me to the text, please.

2 Q. Okay. Do you remember Santiago proffer?

3 A. I'm sorry?

4 Q. Do you remember Santiago proffer? In  
5 that case?

6 A. Is that the --

7 Q. Santiago proffer.

8 A. I'm having a hard time hearing you,  
9 forgive me.

10 Q. Let me ask you this. Do you consider a  
11 proffer a primary source?

12 A. A proffer?

13 Q. Yes.

14 A. A proffer can be a primary source. It  
15 can be a secondary source. It depends on the  
16 context.

17 In the terrorist finance cases, a proffer  
18 from the government represents what the government  
19 thinks it has as evidence. Patrick Fitzgerald was a  
20 careful prosecutor. He did a number of important  
21 cases. He's still doing important cases in the  
22 private sector. And it's a document I take  
23 seriously.

24 Q. So your testimony at -- your testimony, a  
25 proffer changes the standard of if it's primary

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1 source from not primary source from one case to  
2 another or from one subject matter to another; is  
3 that correct?

4 MR. HAEFELE: Objection to form.

5 A. The question of what is a primary source  
6 and what's a secondary source and what's a tertiary  
7 source, there's a lot of literature on it as to what  
8 something is in the particular context.

9 The rules for determining in an academic  
10 world what's a primary source, what's a secondary  
11 source, and in some cases what's a tertiary source,  
12 may be different from rules on hearsay, for example,  
13 or rules used for experts. The question is, is it  
14 part of the record and do I look at it as  
15 information that I can weigh. And the answer is,  
16 yes, it's part of the information that I can weigh  
17 and they can take, references to statements by  
18 individuals. Those statements by individuals may or  
19 may not be available outside the proffer. So you  
20 have to be very concrete. We look at what is being  
21 relied on for and what it says.

22 Q. (BY MR. MOHAMMEDI) So the question is,  
23 you corroborate, for instance, a proffer with other  
24 information from which to reach an opinion; correct?

25 MR. HAEFELE: Objection --

1           A.       Sorry I --

2           Q.       (BY MR. MOHAMMEDI)   Do you corroborate  
3   the proffer, if -- the information in the proffer  
4   with other information that you have to be able to  
5   reach an opinion?

6                   MR. HAEFELE:   Objection to form.

7           A.       I looked at as much information as I  
8   could within the period of time allotted to me to  
9   try to incorporate and understand a wide range of  
10   materials, which included the proffer but was not  
11   limited to the proffer.   So for example, with monies  
12   relating to the Aranda case, there's separate  
13   documents from the United States government, such as  
14   terrorist designations.   There's separate  
15   information from the UN, such as terrorist  
16   designations.   You look at everything you can to try  
17   and figure out what's going on.

18          Q.       (BY MR. MOHAMMEDI)   Okay.   What about  
19   Christopher Hedges' 1992 New York Times article.  
20   It's not a primary source?

21          A.       It's not -- it's a newspaper article  
22   that's contemporaneous.   And it's contemporaneous on  
23   certain things.   Then I think it can be relied on as  
24   a primary source for certain things.   In other  
25   aspects, it's a secondary source.

1           Let me explain what I mean by that. It  
2     contains a quote from an individual, which I assume  
3     to be an accurate quote. He was a good reporter for  
4     a well-respected publication. It's never been taken  
5     down as false by that publication. The New York  
6     Times publishes corrections all the time and appends  
7     them to stories when a fact is found not to be true.

8           And so the individual likely said exactly  
9     what he was quoted as saying, regardless of whether  
10    the quote -- what he's saying is accurate, the quote  
11    is accurate. I have no reason to believe otherwise.

12           It also quotes a Saudi official at the  
13    same time as making certain statements. So for the  
14    references by the reporter to contemporaneous  
15    quotes, for that purpose, it's primary or pretty  
16    close.

17           Now, every newspaper article, every  
18    article exists that's a newspaper article can be  
19    looked at as a primary source for what was published  
20    in that publication at that time. And it can be  
21    looked at as a secondary source to the extent that  
22    it contains a collection of statements by different  
23    people or assessments.

24           Q.     So is it your --

25           A.     It really depends on what use it is and

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1     how you put it against other material. In the case  
2     of that article, I now understand that the  
3     chairman --

4             Q.     Okay. So I think -- I really --

5             A.     Yeah.

6             Q.     Let me -- I'm sorry, let me ask you this.  
7     So you are saying any quotes in a newspaper article  
8     will -- you would consider it as primary source,  
9     anything else would not be -- you don't consider as  
10    primary source. Correct?

11            A.     No, it's not that simple.

12            Q.     Okay. All right. That's fine. That's  
13    fine. We'll move on.

14                    It's fine.

15                    Do you know about Harmony database?

16            A.     Yes.

17            Q.     What is it?

18            A.     It's a collection maintained by  
19    West Point, I believe, of various materials related  
20    to terrorism. Most recently it had materials up  
21    that relate to the January 6th insurrection, for  
22    example; and also contains collections of material  
23    found in situ over time relating to al-Qaeda and  
24    other terrorist groups.

25            Q.     So do you know where they came from?

1 A. Pardon?

2 MR. HAEFELE: Object to the form.

3 Q. (BY MR. MOHAMMEDI) Where did they come  
4 from?

5 A. Some of the material came from --  
6 material -- from my understanding, came from  
7 material captured by American troops and that kind  
8 of thing, in the field.

9 It -- I believe it contains some kind of  
10 legend because it's just stuff that's been captured  
11 that you can't rely on it because it's not  
12 systematic. It's just stuff. It's the legend. And  
13 that's what it is.

14 Q. Okay. Did you consider documents in the  
15 database in rendering your opinion?

16 A. Well, I didn't rely on anything in that  
17 database. I looked at it, and it said it was a  
18 collection of stuff. And I tried searching it. It  
19 wasn't really searchable in a very easy way. And  
20 the stuff that I found was involved -- it was  
21 purchases of sheep. A recipe of some kind for some  
22 kind of treatments for a woman's illness, that kind  
23 of thing.

24 And so it became clear to me it wasn't an  
25 efficient use of my time and wasn't going to lead me

1 anywhere in particular, and so at that point I  
2 stopped. It does have a good -- it does have a good  
3 study on the January 6th insurrection. That was of  
4 value.

5 Q. And letter from lawyers that hired you  
6 and other plaintiffs' lawyers about the production,  
7 you cite them. Do you consider them primary  
8 sources?

9 A. I'm sorry, what material?

10 Q. You cited to lawyers' letters in your  
11 report. Right? Your -- the lawyers who hired you,  
12 the defense lawyers, you cite them in your report.  
13 Do you consider this primary sources?

14 MR. HAEFELE: Objection to the form.

15 A. For the communications that took place,  
16 the documents, the history between -- on the  
17 discovery requests, for that purpose, it's a primary  
18 source; it's a limited use and it's a very limited  
19 issue covered by that letter.

20 Q. (BY MR. MOHAMMEDI) Okay.

21 A. I don't have a better source for it. The  
22 only way I have a better source for it would have  
23 been if I had been present for the communications.

24 Q. Did you ask the lawyers to provide you  
25 with other documentation related to that matter?

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1 A. I don't recollect.

2 Q. Okay. So -- strike that.

3 How many times did you -- how much time  
4 did you spend reviewing the Harmony database?

5 A. Not a lot. As I said, the legend on it  
6 cautioned me on. I tested the legend by looking at  
7 a couple of things to see if it was going to be of  
8 any value. Found it wasn't any value for that  
9 purpose and didn't spend more time on it. I had a  
10 very limited amount of time between December and  
11 when I turned the report in, and didn't spend much  
12 time on it.

13 Q. So it is your testimony you didn't find  
14 any evidentiary value in those documents, that's why  
15 you stopped looking at them?

16 A. That's correct, I did not.

17 Q. Does the CRA have any agency -- in your  
18 report, you went through the details. And I'm not  
19 going to go through the details now, but I just  
20 wanted to for the purposes of your methodology, did  
21 you consider the adverse reporting in that case part  
22 of -- as a primary source?

23 A. I don't understand what you --

24 Q. Okay. So just to be very quick, the  
25 Canadian report, the CRA report, listed adverse



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1 reporting on WAMY; right? And those adverse  
2 reporting listed many newspaper articles, or as a  
3 matter of fact, listed is some other matters in this  
4 lawsuit. Will you consider those as a primary  
5 source for you to consider?

6 A. The primary source is the Canadian  
7 report. Their primary source may not be primary, it  
8 may be secondary sources. I'd have to look at the  
9 various materials. But that document itself  
10 reflects what the findings were of Canada in  
11 connection with this chart. And so it's a primary  
12 source for that purpose. That's what it is.

13 Q. Okay.

14 A. But is that -- is that report in turn  
15 based on secondary sources? It's based on mixture  
16 of primary source data such as financial records and  
17 financial information, statements made to them, and  
18 secondary source information, which are also relied  
19 on. That's my understanding of that report.

20 Q. Okay. Do you agree that charities --  
21 that -- do you agree that charities  
22 supported al-Qaeda? They don't support the al-Qaeda  
23 just because they operate in conflict zone?

24 MR. HAEFELE: Objection to the form.

25 A. If I understand the question correctly,

1 your understanding of whether a charity that's  
2 operating in a conflict zone is necessarily engaged  
3 in terrorist support or terrorist finance?

4 Q. (BY MR. MOHAMMEDI) Correct.

5 A. If that's the question, the answer is no,  
6 they are not.

7 Q. If you, Mr. Winer, if you can just refer  
8 to your report. We're going to go through a series  
9 of sections about the report.

10 If you go to Section 5, page 18.

11 So in that one you said, Saudi Arabian  
12 charities, and that's Section 501. 5.1, sorry.

13 Do you see that?

14 A. Yes.

15 Q. Okay. You said: Saudi Arabian charities  
16 and Saudi nationals played a central role in helping  
17 al-Qaeda create its global infrastructure, uniting  
18 disparate Muslim groups in different parts of the  
19 world into a common extremist cause.

20 Can you read that?

21 A. Yes.

22 Q. What do you mean by central role?

23 A. I think if you turn to the 9/11  
24 Commission report, I've given a great deal of  
25 thought to this, and pages 170 to 171 I think

1 provide the formulation.

2                   What you essentially had was, the Saudi  
3 government was facing several threats. It faced the  
4 domestic threat after as evidenced in the attack on  
5 the grand mosque, of very extreme religious  
6 thinking, turning into a political movement,  
7 threatening their legitimacy. That was one threat.  
8 They faced an initial threat from nationalists,  
9 which is Arab nationalism to an alternative to  
10 political Islam. They also faced a threat to  
11 their -- to their hegemony, from potentially any  
12 other Islamic group that were not part of -- or  
13 within Saudi -- that were not supported by  
14 Saudi Arabia or outside being friendly to them.

15                   So what happened in response to that, as  
16 I understand it, is the Muslim World League was  
17 created with a goal in part of combatting what I  
18 call nationalism. Or Arab nationalism. Or  
19 pan-Islamic response instead. And that in turn led  
20 to the support of additional terrorists.

21           Q.       Now --

22           A.       As the -- please don't interrupt me, sir.  
23 I'm answering your question as directly as I can.

24                   And as the 9/11 report, commission report  
25 found, on pages 170, 171, the big state-sponsored

1 charities wind up in turn supporting smaller  
2 charities, and those smaller charities over the  
3 course of a series of a conflicts, Afghanistan,  
4 Bosnia, Chechnya, for example, but it also included  
5 Kashmir and Dagestan and Sudan, began bit by bit to  
6 provide a foundation for al-Qaeda. And that's what  
7 I believe happened.

8           It wasn't necessarily, by any means, this  
9 global jihad. The intent at the front end, the  
10 intent at the front end was an effort to reduce the  
11 threat to the Saudi government from a variety of  
12 forces. And in 2017, 2018, '19, and '20, when I was  
13 back at the State Department, I saw this still  
14 playing out in the Middle East and North Africa,  
15 with the problems between Shia and Sunni, and with  
16 the Islamic state, the al-Qaeda and the Maghreb and  
17 elsewhere, still playing out in this battle between  
18 what are we going to have, nation-states? Or  
19 political Islam? Or dictators or al-Qaeda or  
20 pan-Arabism. Or even Ottomanism, which also  
21 continues to play a role in the region.

22           So that's the backdrop to paragraph 51.

23           Q.     Can you point me to one single paragraph  
24 in the 9/11 Commission where it's listed WAMY,  
25 Muslim World League, that they had created -- that

1 had create the global infrastructure of al-Qaeda?

2 And when I mean that, I mean list the name.

3 Anywhere in the report. Right?

4 A. Sure. I would be --

5 Q. -- Muslim groups in the part of the world  
6 as a common extremist cause. But I'd like you to  
7 show me in the report that WAMY was referred to this  
8 way, and also was remotely was referring to this  
9 this way.

10 MR. HAEFELE: Object to the form.

11 A. I would be grateful to the opportunity to  
12 have on the screen page 170 and 171 and then we can  
13 discuss precisely that issue.

14 MR. MOHAMMEDI: Okay. Can we go off the  
15 record a minute? Just a minute, please.

16 THE VIDEOGRAPHER: We are off the  
17 record at 1:19 p.m.

18 (Recess taken, 1:19 p.m. to  
19 1:21 p.m. EDT)

20 THE VIDEOGRAPHER: Back on the record  
21 at 1:21 p.m.

22 Q. (BY MR. MOHAMMEDI) So if you can just  
23 put our Exhibit 13 on the screen, which we sent you.  
24 That will be --

25 TRIAL TECHNICIAN: It will be 907.

1 MR. MOHAMMEDI: It's 170, I'm sorry,  
2 170 and 171.

3 (Winer Deposition Exhibit 907, The  
4 9/11 Commission Report, was marked  
5 for identification.)

6 MR. HAEFELE: You're not putting up  
7 the pages he referenced, you're putting up  
8 different pages.

9 A. No, these are the pages I referenced.

10 MR. HAEFELE: These are page 170.  
11 These are the pages that he wanted.

12 A. If we go to the first, second, third  
13 paragraph -- hold on. Fourth paragraph one, two,  
14 three, four. There's the following sentences, and  
15 I'd like to read those sentences and then comment on  
16 them with my understanding.

17 Al-Qaeda also collected money from  
18 employees of corrupt charities. It took two  
19 approaches for using charities for fundraising. One  
20 was to rely on al-Qaeda sympathizers in specific  
21 foreign branch offices of large, international  
22 charities, particularly those with lax external  
23 oversight and ineffective internal controls, such as  
24 the Saudi-based al-Haramain Islamic Foundation.  
25 Similar charities in various parts of the globe were

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1 funded by these large Gulf charities and had  
2 employees who would siphon the money to al-Qaeda.

3 Q. (BY MR. MOHAMMEDI) So it says  
4 al-Haramain. It doesn't say WAMY, it doesn't say  
5 Muslim World League, correct?

6 MR. HAEFELE: Objection to form and  
7 objection to the interruption.

8 A. It says, smaller charities in various  
9 parts of the globe were funded by these large Gulf  
10 charities. The al-Haramain reference is a reference  
11 to an entity which Saudi Arabia joined and  
12 sanctioned, and it is a "such as." Such as means  
13 it's not the only one. Now, there were a limited  
14 number of large international charities in  
15 Saudi Arabia. And the one the United States  
16 government referred to repeatedly as a particular  
17 concern in public testimony and in private  
18 communications to the Saudi Arabian government were  
19 IIRO, the Muslim World League, and WAMY.

20 Q. (BY MR. MOHAMMEDI) So here, if you --  
21 Mr. Winer, what does it say on those pages that  
22 WAMY, Muslim World League, and IIRO played any role  
23 in helping create al-Qaeda's global infrastructure.  
24 What does it say here?

25 A. I believe it says, the statement, large

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1 international charities such as, which set up, were  
2 supporting, smaller charities, is a reference to  
3 those three entities.

4 Q. But my question is very specific. Has it  
5 said those names that they form helping create  
6 al-Qaeda global infrastructure. Based on your  
7 statement in 5.1: Central role in helping al-Qaeda  
8 creates its global infrastructure, uniting disparate  
9 Muslim groups, in different parts of the world into  
10 a common extremist cause. I'm just asking, does --  
11 is it true that WAMY, Muslim World League, and IIRO  
12 were not named in this; correct?

13 MR. HAEFELE: Objection to form.

14 Q. (BY MR. MOHAMMEDI) That is 9/11  
15 Commission report; correct?

16 MR. HAEFELE: The report is reticent  
17 on the names of who the other large  
18 international charities were.

19 Q. (BY MR. MOHAMMEDI) You're -- but,  
20 Mr. Winer, you're the one who wanted to refer me to  
21 page 170, 171 to support your opinions; right?  
22 Correct?

23 A. Yes, I'm asking to you understand this in  
24 connection with many statements made by U.S.  
25 government officials in other forums about these



1 entities, and you put two and two together and it  
2 makes four.

3 Now, if you look on page 171 --

4 Q. These are your assumptions; correct?

5 A. I beg your pardon?

6 Q. These are your assumptions; correct?

7 A. This is my understanding. Page 171,  
8 please. The end of the first paragraph, the first  
9 full paragraph: This conclusion does not exclude  
10 the likelihood that charities with significant Saudi  
11 government sponsorship -- charities -- diverted  
12 funds to al-Qaeda. Charities is more than one.  
13 It's not just al-Haramain.

14 Q. First of all, it does not say WAMY,  
15 Muslim World League, and IIRO, correct?

16 MR. HAEFELE: Objection.

17 Argumentative.

18 A. It is reticent on the identity of those  
19 charities.

20 Q. (BY MR. MOHAMMEDI) And that's based on  
21 your assumption, correct?

22 MR. HAEFELE: Objection.

23 A. Based on the other statements made by  
24 U.S. government officials in a number of other  
25 contexts. That is what I believe, correct.

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1 Q. (BY MR. MOHAMMEDI) Okay. Just bear with  
2 me a second. I just want to -- while you're here,  
3 I'd like to address one more. So the commission  
4 report does not exclude the likelihood; correct?

5 A. That's correct.

6 Q. Your testimony said is the likelihood;  
7 correct?

8 A. Yes.

9 Q. Why do you do that?

10 MR. HAEFELE: Objection to the form.

11 A. Because I looked at the entire record  
12 that's been available to me that I was able --

13 Q. (BY MR. MOHAMMEDI) But you are -- but  
14 you are misquoting, Mr. Winer. You're misquoting  
15 the 9/11 Commission report; correct?

16 MR. HAEFELE: Objection on  
17 interrupting the witness.

18 A. Please, sir, show me where I'm misquoting  
19 the report.

20 Q. (BY MR. MOHAMMEDI) Let me show you.

21 MS. ROTHSTEIN: Do not argue with the  
22 witness.

23 MR. MOHAMMEDI: Can we go off the  
24 record for a second?

25 THE VIDEOGRAPHER: We are going off

1 the record at 1:29 p.m.

2 (Recess taken, 1:29 p.m. to

3 1:30 p.m. EDT)

4 THE VIDEOGRAPHER: Back on the record

5 at 1:30 p.m.

6 Q. (BY MR. MOHAMMEDI) Mr. Winer, I direct  
7 you to paragraph 5.34 of your report, affirmative  
8 report at page 21.

9 And you put that in bold.

10 Commission noted, a likelihood that  
11 charities with significant Saudi government's  
12 sponsorship diverted funds to al-Qaeda.

13 Do you see that?

14 A. Yes.

15 Q. You don't think that's misquoting what  
16 the commission said?

17 A. No, I do not.

18 Q. So you think exclusion of likelihood is  
19 the same thing as likelihood?

20 A. Not excluding the likelihood. You just  
21 misquoted the report, I believe.

22 Q. Okay. Let's move on, then.

23 Can you tell me who established this  
24 infrastructure that you're referring to from the  
25 charities? And how this infrastructure was

1 established?

2 A. Sure. There was a call to support  
3 Muslims in Afghanistan after the Soviet takeover of  
4 Afghanistan. The Saudi Arabian government responded  
5 to that call, providing support to the Afghan  
6 fighters. It also provided support to people from  
7 the Gulf, particularly Saudi Arabian, including with  
8 discounted airfare and things like -- of that  
9 nature, to have them come respond to the cause.

10 As they did that, Abdullah Azzam, while  
11 Shareem, Osama bin Laden, and others, began to  
12 develop a creed in which the war needed to be taken  
13 beyond Afghanistan to go into other countries. What  
14 began as an Afghanistan-only set of activities  
15 became increasingly transnational. It included the  
16 same kind of response, even the more aggressive and  
17 directly in Bosnia that happened more quickly. They  
18 were trying to establish the weapons provided and  
19 then in Chechnya. And there's a pretty good record  
20 for the support of both the Saudi government and  
21 charities in these theaters of conflict.

22 And the problem with the provision of  
23 humanitarian support in these regions because they  
24 can become easily commingled with non-American  
25 humanitarian support. And when you have support

1 for -- from combatants and you're providing  
2 paramilitary support to combatants, for example --  
3 paramilitary means military support for  
4 combatants -- you are winding up creating  
5 capabilities, which in turn can be used and were  
6 used by terrorist groups.

7 At the same time, the propagation efforts  
8 that I referred to earlier of the Saudi government  
9 in response to the threat from Nasserite  
10 Pan-Arabism, and from their own threat to their  
11 religious legitimacy that was expressed in the grand  
12 mosque takeover, meant that for the Saudis, they  
13 needed to incorporate as many different Islamist  
14 groups around the world as they could into Wahhabism  
15 as one way of maintaining and strengthening their  
16 position domestically and internationally.

17 And that included many good deeds,  
18 humanitarian deeds, taking care of poor people in  
19 many different countries in all kinds of different  
20 ways. But in the orphanages and the schools,  
21 including in madrassas in Pakistan, also became a  
22 breeding ground for extremist doctrine. And that  
23 extremist doctrine in turn provided a foundation for  
24 al-Qaeda. So you had the doctrine on the one hand,  
25 you had the people in the conflict zone being

1 brought into the conflict zones who weren't there  
2 originally, people from outside of Afghanistan and  
3 Pakistan being brought in there. You had madrassas.  
4 You had then the ability to have people recruited,  
5 trained, and taken care of while they were training.

6 And that's why the CIA report in 1996 is  
7 such an important distillation, because it  
8 highlighted, by the time they were in Bosnia, all of  
9 that had matured, in part, into providing support  
10 for terrorism, which is why I consider that to be a  
11 particularly foundational report for that reason,  
12 because it summarizes these foundations, which  
13 developed over the core -- the tail of the last half  
14 of the Afghan war, it continued even after the  
15 Afghan war basically ended with the departure of the  
16 Soviets. Because it didn't just stop there, it  
17 continued while Bin Laden was in Sudan and it  
18 continued with particularly the Bosnian and Chechnya  
19 and Dagestan episodes. And it metastasized from  
20 there. And that's what I see as having happened.

21 Just to conclude, it is very important --

22 Q. Okay --

23 A. It's a fundamental importance to  
24 emphasize the humanitarian aspects of what these  
25 charities were doing, as well as to be able to note

1 the areas in which it went wrong. Both were taking  
2 place.

3 Q. And this required facts; correct?

4 A. Yes.

5 Q. Okay. And this is -- this is your  
6 understanding of an infrastructure; correct?

7 A. Yes.

8 MR. MOHAMMEDI: Let's -- I think  
9 let's go for lunch, and then we come back,  
10 take a break. So Mr. Winer, are you okay with  
11 lunch now and then we can come back?

12 A. Whatever you want.

13 THE VIDEOGRAPHER: We're going to go  
14 off the record at 1:37 p.m.

15 (Recess taken, 1:37 p.m. to  
16 2:11 p.m. EDT)

17 THE VIDEOGRAPHER: We are back on  
18 record at 2:12 p.m.

19 Q. (BY MR. MOHAMMEDI) Thank you, Mr. Winer.

20 At the time of -- and if you go to  
21 Section 4.1 of your report, which is page 12.

22 You state that: Bin Laden combined  
23 strands of extreme political Islam from ideas which  
24 began in Egypt and in Saudi Arabia with his skills  
25 as a fundraiser to build a global network of

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1 terrorist groups.

2 Do you see that?

3 A. Yes.

4 Q. At the time of its formation, 1988, was  
5 al-Qaeda designated by U.S. government?

6 A. United States didn't know about al-Qaeda  
7 in 1988.

8 Q. Was al-Qaeda designated in 1988? When  
9 was al-Qaeda designated?

10 A. I believe 1998. That's my memory.

11 Q. Okay. Turn to exhibit -- and this is  
12 for -- it's our Exhibit 11. I can't remember where  
13 we are now.

14 (Winer Deposition Exhibit 908,  
15 Letters From Bin Laden, Date: 12  
16 April 1994 to 7 May 1998, was marked  
17 for identification.)

18 Q. (BY MR. MOHAMMEDI) Is a document titled  
19 Letters From Bin Laden. Do you see that, Mr. Winer?

20 A. Yes.

21 Q. And its date is April 12, 1994 to May 7,  
22 1998. Do you see that?

23 A. Yes.

24 Q. Do you know what this document -- do you  
25 know where this document comes from?



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1 A. No.

2 Q. Okay. This document came from the  
3 Harmony database.

4 A. Oh, good. Uh-huh.

5 Q. If you go to page 53 -- 51-53 of the PDF.

6 A. Okay.

7 Q. And go with starting with page 51.

8 Just trying to see where it starts.

9 Besides -- can you go -- can you go to page 52  
10 again? I'm sorry, that's page 52. Sorry about  
11 that.

12 Do you see that? It says: Beside the  
13 regime's political and ideological blockade, it also  
14 exercised a harsh economic and financial (policy) as  
15 well. Part of this blockade was dissolving  
16 charitable organizations that used to deliver  
17 donations from citizens to the many needy people  
18 inside and outside the country. It replaced them  
19 with organizations and foundations subservient to  
20 royal family members and particularly Prince Salman.

21 Do you see that?

22 A. Yes.

23 Q. And then at page 52-53 -- at section  
24 52-3, which is bottom of 52, top of 53.

25 He goes on to say: The reason behind

1     this procedure does not encourage good deeds, as the  
2     regime claims, but rather the following: Prevents  
3     these funds from being delivered to areas where they  
4     could be used to serve Islam and Muslims following  
5     the principle "do not spend on those who are with  
6     the messenger of Allah till they desist."

7                     Do you see that?"

8             A.     Yes.

9             Q.     And then he goes on page 53, paragraph 3:  
10     Based on what was stated, we, at the reform and  
11     advice foundation, while celebrating this blessed  
12     month as a month of giving for Allah's sake, wish to  
13     draw the attention of all donors to the danger of  
14     donating funds or zakat to these foundations and  
15     organizations. The regime is using them against God  
16     and his messenger. We are asking the donors to  
17     provide these funds directly to the needy, whether,  
18     inside or outside the country. They could not --  
19     they could also provide it to those trusted  
20     individuals who will deliver them. It is known that  
21     the Saudi leaders cannot be trusted. There are  
22     other safe ways you can assist in delivering funds  
23     to those who deserve them. Among them are  
24     benevolence foundations in Qatar, Kuwait, Jordan,  
25     Yemen, Sudan, and others. To assure that funds

1 transfer to these foundations' bank accounts, we  
2 draw your attention to the importance of  
3 transferring these funds outside the Saudi peninsula  
4 away of the pursuing regime's spies.

5 That's correct, right?

6 MR. HAEFELE: Objection to form.

7 A. If I could just -- where is the date of  
8 this, please?

9 Q. (BY MR. MOHAMMEDI) Okay. So this is --  
10 if you go up, you see what I mentioned, it's date  
11 from -- so statement No. 13 is February 12, 1995.

12 A. Right. Okay.

13 Q. Okay? And then on August -- actually,  
14 then on August 3rd, 1995, at page 85 of the PDF, he  
15 also goes on to say: Thanks to Allah and prayers  
16 and mercy upon the messenger of Allah and those that  
17 were rightly guided by his guidance. It is no  
18 longer hidden that the Saudi regime persistently  
19 sought to block all the abilities and capabilities  
20 of the ummah by placing control over it. But the  
21 regime was not satisfied with its unjust policies;  
22 it had to go further by imposing control on the  
23 minds and the politics of the nation.

24 Moreover, the regime sought to impose  
25 economic control. This resulted in the closure of

1 charitable organizations that delivered the  
2 contributions of the benefactors from this country  
3 to its deserving lawful owners. The regime replaced  
4 these charitable organizations with associations and  
5 organizations that were supervised by members of the  
6 ruling family, such as Prince Sultan and Prince  
7 Salman. This revealed a scheme by which they  
8 monopolized the charitable contributions in such a  
9 way that it prevented Islam and the Muslims from  
10 benefitting from them. The regime used the  
11 contributions the same way it used the money of the  
12 Afghani mujahidin. That money was used to pressure  
13 the mujahidin and influence their policies in a way  
14 that would benefit the interests of the West.  
15 Sometimes these contributions were used for the  
16 private interests of the Princes.

17 Now, if you go to page 88, and I'm  
18 reading this to you. To 89.

19 Again, and he said: We are drawing their  
20 attention to the risk of forwarding those  
21 contributions through the ruling regimes and its  
22 organizations. We are advising them to deliver  
23 their contributions directly to the people or  
24 through safe hands of the individuals,  
25 organizations, and societies that are trusted, such

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1 as the charitable societies in Qatar, Kuwait, Sudan,  
2 Yemen, and Jordan. We are advising them to be  
3 careful that their contributions stay far from the  
4 pursuit of the servant of the two holy mosques and  
5 his agents, and to make sure that the money will  
6 reach the people it is intended for.

7 Are these recipes?

8 MR. HAEFELE: Objection to form.

9 Q. (BY MR. MOHAMMEDI) Just because they  
10 come from the Harmony database. You agree with me  
11 these are not recipes, right?

12 MR. HAEFELE: Objection to form.

13 A. I made no representation that all the  
14 materials in the Harmony database were recipes.

15 Q. (BY MR. MOHAMMEDI) Okay. Now, so  
16 let's -- let's -- those were made in 1995.

17 A. Yes.

18 Q. And as of the time they were made, it  
19 shows, like you said, the safe contemporaneous that  
20 were made that those Harmony database were found  
21 this is what Bin Laden's; correct?

22 MR. HAEFELE: Objection to form,  
23 foundation.

24 A. I can't say what the original source was  
25 for this document.

1 Q. (BY MR. MOHAMMEDI) You didn't consider  
2 this, did you?

3 A. I am aware of this period in which the  
4 Saudi government, Osama bin Laden were very much at  
5 odds after he pled for them to support him in what  
6 he was doing and they declined and he got very angry  
7 about it. And they then took further steps to take  
8 money away from him, and he faced a period where he  
9 was having a hard time getting the funding that he  
10 wanted. And that did take place, and I did consider  
11 that.

12 Q. You did consider this, you said?

13 A. I considered that situation.

14 I don't recollect reading this particular  
15 document, but I am aware of the break between him  
16 and the Saudi government which had been reported in  
17 a bunch of places.

18 Q. Are those in your reliance considered  
19 that were submitted in our case? The Harmony  
20 database?

21 A. I don't know, as I said to you, whether  
22 I've seen this document. I am aware of what the  
23 situation is. And I certainly read material  
24 relating to this moment, which is when Osama bin  
25 Laden was facing financial pain. He was very

1 unhappy about it and was trying to see if he could  
2 grab direct control of resources rather than have to  
3 rely on what he could get indirectly. And that, I'm  
4 quite familiar with.

5 Q. And based on your testimony, you were  
6 aware that Saudi Arabia took steps to marginalize  
7 Osama bin Laden prior to 9/11; correct?

8 MR. HAEFELE: Objection to form.

9 A. In the 1995 period, roughly, as he was  
10 coming back from Sudan, and I could be slightly off  
11 on the date, he made a trip to Saudi Arabia, asked  
12 for support, didn't get the support; there was a  
13 very high level meeting between him and my memory  
14 was members of the -- senior members of the royal  
15 family, and there was a big parting at that moment.  
16 But the controls that he talks about here and the  
17 dissolution of charitable societies, those were not  
18 put in based on the information that's been  
19 available to me.

20 Q. (BY MR. MOHAMMEDI) Okay.

21 A. Because things like al-Haramain, for  
22 example, which the Saudis ultimately closed,  
23 remained open. So I don't know how much of this is  
24 propaganda by Bin Laden and how much of this is  
25 accurate. It is a primary source --

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1 Q. So you -- your -- your statement, this is  
2 not accurate; correct?

3 MR. HAEFELE: Omar, don't interrupt  
4 the witness, please.

5 A. What I said actually was I can't say how  
6 much of this is propaganda.

7 Q. (BY MR. MOHAMMEDI) So you are not sure  
8 if this is --

9 A. And how much of it accurately reflects  
10 the actions that were taken by the Saudi government.

11 I do know that the United States  
12 government felt for many years and expressed its  
13 concerns for many years about the fact that the  
14 major international charities in Saudi Arabia were  
15 under the control, essentially, of their religious  
16 establishment of Saudi Arabia separate from other  
17 charities and that those controls were insufficient  
18 to prevent their use from terrorist finance.

19 Q. So --

20 A. That's -- so what would happen, too, is  
21 to assess, and to what extent this is Bin Laden  
22 expressing his rage and trying to get funds for  
23 himself and to what extent it's true. And you have  
24 to look at other information at the same time, such  
25 as contemporaneous Saudi documents showing that they



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1 closed charities at that time, showing that they put  
2 controls in place, that kind of thing.

3 Q. So, Mr. Winer, I'm going -- I'm trying my  
4 best to stop you, but I don't think you are  
5 answering my questions. My question is not what the  
6 Saudi government did based on your knowledge. What  
7 my question is that did you consider this material  
8 when you rendered your opinion? That's the only  
9 question I have for you.

10 MR. HAEFELE: Objection to the form  
11 of the question, except for the part were you  
12 said you're trying your best to stop him.

13 MR. MOHAMMEDI: I said trying my best  
14 not to stop you.

15 A. Well, I looked at material which  
16 described this incident and this moment in time. I  
17 did not read this document, but I was aware of the  
18 gist of its contents.

19 Q. (BY MR. MOHAMMEDI) And you were not sure  
20 if this was in your reliance material of the Harmony  
21 database in general?

22 A. I don't know whether it was listed or  
23 not. As I told you, I looked at it, but I didn't  
24 spend a lot of time with it. And it wasn't  
25 something that I particularly relied on, because I

1 had a lot of information from other sources, and I  
2 could not read everything.

3 As you pointed out, there are millions of  
4 pages.

5 Q. Sure. Let's -- if you can -- we can take  
6 this down. We just go to -- and very quickly,  
7 Mr. Winer, I'd like to ask you about your summary  
8 section three, 3.1-3.17. And I assume this is an  
9 affirmative report. I think that was 698, I  
10 believe.

11 And this -- there is no citation because  
12 they are executive summaries; correct?

13 A. That's correct.

14 Q. Okay. Now, Section 3.12, you state that  
15 charities such as IIRO, Muslim World League, and  
16 WAMY did not accurately report support they provided  
17 for terrorism; correct?

18 A. Yes.

19 Q. Okay. And in footnote four of your  
20 report, page 10, it's -- you say -- you stated that  
21 you have seen no audit pertaining to WAMY or Muslim  
22 World League, but audit entities -- of entities they  
23 funded or assisted show false recordkeeping.

24 Which other organization did you review a  
25 document showing WAMY audits were reported in this

1 or any other -- or Muslim World League?

2 A. Well, WAMY, for example, provided support  
3 to --

4 Q. That's not my question, Mr. Winer.

5 A. I'm sorry --

6 Q. I'm asking which other organization you  
7 reviewed documents showing WAMY audits.

8 MR. HAEFELE: Mr. Mohammedi, I'm  
9 going to caution you again, you have to let  
10 the witness answer the question. If you don't  
11 like his answer --

12 MR. MOHAMMEDI: If the witness does  
13 not answer my question, I'll have to ask again  
14 for it to --

15 MR. HAEFELE: That's fine, you can  
16 ask again, I suppose, and take the time, but  
17 you can't interrupt the witness from answering  
18 the question.

19 MR. MOHAMMEDI: Okay. I'm going to  
20 ask another question -- I'm going to ask this  
21 question again: Which other organization you  
22 reviewed documents showing WAMY audits?

23 A. The Third World Relief Association.

24 Q. (BY MR. MOHAMMEDI) You reviewed the  
25 documents showing WAMY audits?

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1 A. No, I didn't say WAMY audits.

2 Q. Okay. So my question, which other  
3 organization you reviewed documents showing --  
4 because in your footnote, you state that you have  
5 seen no audits pertaining to WAMY or Muslim World  
6 League. But audit of entities they funded or  
7 assisted show false recording.

8 A. I have sought to answer your question  
9 accurately each time you've asked it. Let me try  
10 again.

11 At the time I wrote the first report, I  
12 asked for but did not receive audits pertaining to  
13 WAMY or Muslim World League. I wanted them, I  
14 didn't get them. I got them and discussed them in  
15 the rebuttal -- my rebuttal report. I did see  
16 audits of entities they funded or assisted which  
17 showed false recordkeeping.

18 Q. And which organizations are those?

19 A. The Third World Relief Association is  
20 one. And the IIRO is another.

21 Q. So how come we don't have that in the  
22 reliance material, the document of WAMY showing the  
23 false recording in the Third World Relief  
24 organization?

25 A. I believe they are in the reliance

1 material. I believe that they are cited in my  
2 report.

3 Q. So you -- so the documents in your  
4 reliance material show that -- which you stated show  
5 that false -- I mean the false recording of WAMY,  
6 when -- it was audits from WAMY, at TWRA, that show  
7 false recording from WAMY audits; correct?

8 A. That's not what my statement says.

9 Q. Okay. So I'm going to repeat that.  
10 You state that you have seen no audit  
11 pertaining to WAMY and Muslim World League, but  
12 audits of entity they funded or assisted show false  
13 recording.

14 Do you see that?

15 A. Yes.

16 Q. What do you mean by that?

17 A. If you look at the Canadian audit of the  
18 Canadian entity, if you look at the audit that was  
19 undertaken of the Austrian, Vienna-based entity, the  
20 Third World Relief Association, there are  
21 transactions from WAMY in that case to them, and  
22 they engage in false recordkeeping. It's quite  
23 clear from the audit -- had additional material that  
24 that charting was providing, among other things,  
25 military support, and that the recorded records,

1 financial transactions, were in one clearance is not  
2 the same as what a fax showed.

3 And from context it's clear to me that  
4 there was pretty comprehensive false bookkeeping for  
5 the Third World Relief Agency. It's also consistent  
6 with what I've seen in many financial --  
7 international financial crime cases, in which the  
8 purposes of transactions are mischaracterized for  
9 the purpose of transactions that went through banks  
10 or that were recorded. It's very typical of a lot  
11 of various kinds of criminal activity. And that's  
12 the case with that organization.

13 Q. So we're talking about WAMY Canada, we're  
14 talking TWR; correct?

15 A. Yes. And IIRO --

16 Q. Okay.

17 A. -- and IIRO as well.

18 Q. Okay. We will get to that at some point.

19 If I can get Exhibit 12, monograph on  
20 terrorist finance.

21 (Winer Deposition Exhibit 909,  
22 Monograph on Terrorist Financing -  
23 Staff Report to the Commission, was  
24 marked for identification.)

25 Q. (BY MR. MOHAMMEDI) If you go to page 20,

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1 which is page 23 of the PDF.

2 MR. HAEFELE: This is only nine  
3 pages.

4 MR. MOHAMMEDI: Just hold on one  
5 second. I think we're missing...

6 You have only nine pages there?

7 A. Yes.

8 MR. MOHAMMEDI: Can we go off record  
9 and just get this straightened out?

10 THE VIDEOGRAPHER: Going off the  
11 record. 2:34 p.m.

12 (Recess taken, 2:34 p.m. to  
13 2:35 p.m. EDT)

14 THE VIDEOGRAPHER: Going back on the  
15 record. 2:35 p.m.

16 Q. (BY MR. MOHAMMEDI) So Exhibit 909, it's  
17 the monograph on terrorism finance.

18 A. Yes.

19 Q. Have you seen this document before?

20 A. Yes, I cite it in my report.

21 Q. Do you agree with the statement made  
22 here, in 1993 the Saudi -- if you could read the  
23 statement and tell me if you agree with them.

24 A. Which page are we on? Are we on page 20?

25 Q. This is page 20 of the monograph?

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1           A.       Yes. This is why the material that you  
2 just read me from the Harmony database was in no way  
3 new to me. This is among the many places that I've  
4 seen that describes this moment in the history of  
5 al-Qaeda and Jumaani.

6           Q.       So it describes Osama bin Laden family  
7 money frozen 1993 to 1994; correct?

8           A.       Yes.

9           Q.       And then, same exhibit. If you go to  
10 same thing, page 20, it says: That Bin Laden moved  
11 to Afghanistan 1996. His financial situation was  
12 dire. It took months for him to get back on his  
13 feet.

14                   Do you agree with that statement?

15           A.       Yes, that's consistent with the document  
16 you just read to me of his correspondence in which  
17 he's trying to get money going directly to him as  
18 opposed to having to get it elsewhere.

19           Q.       And if you go to 9/11 Commission, the  
20 same pages you were referring to, which is 170 --

21           A.       There is additional information on this  
22 page and the next page that's also --

23           Q.       My question is this.

24                   Can we go -- we go back to -- back and  
25 forth. Go to 9/11 Commission at page 170.



1 Which was that -- which was the exhibit  
2 of 9/11 Commission we have?

3 907.

4 Okay. So -- and it says the same thing;  
5 correct?

6 A. Pretty much. It's not the identical  
7 words, but it's the same substance.

8 Q. Same summary.

9 It says: When Bin Laden left Sudan in  
10 1996 it appears the Sudanese government expropriated  
11 all his assets: He left Sudan with practically  
12 nothing.

13 Do you agree with that?

14 A. Yes.

15 Q. We can take this down.

16 If you go for Section 4.3, page 14 of  
17 your report.

18 And you mention -- if you go to -- these  
19 propagation activities. Do you see -- yeah. The  
20 last sentence.

21 These propagation activities included the  
22 dissemination of extremely intolerant and  
23 anti-western Wahhabist ideas which included strong  
24 hostility to Christians, Jews, and to non-Islamicist  
25 or secular governments.

1 Do you see that?

2 A. Yes.

3 Q. You have no citation there; correct?

4 A. That's correct.

5 Q. Can you give me specifics of terrorist  
6 training of fighters?

7 A. I didn't hear the second half of the  
8 question.

9 Q. Can you give me specifics, and I'm asking  
10 for specific, I'm not asking for anything else, just  
11 specifics, of training fighters, the terrorist  
12 training fighters?

13 A. The training that took place in the  
14 Afghanistan training camps were found to be by the  
15 various U.S. government agencies to provide the  
16 foundation for both armed Islamic resistance in  
17 Afghanistan, Bosnia, and Chechnya, and training that  
18 was then used to provide the foundations for  
19 terrorist activity.

20 In my report, I provide examples in  
21 connection with IIRO, WAMY, and -- WAMY, IIRO, and  
22 Muslim World League. So the specifics are in the  
23 report in those sections. They provide examples of  
24 the type of language and which provide examples of  
25 the type of activity. The CIA report in 1990 -- in

1 1996 describes the funding of essentially militant  
2 training camps. The militant training camps were  
3 used both for a direct fighter for paramilitary  
4 activities by combatants and also for the smaller  
5 cadre of people who were then handpicked for  
6 follow-on activities, directed externally by  
7 Bin Laden and al-Qaeda.

8 Q. And you have those specifics in your  
9 report; correct?

10 A. I have representative examples of the  
11 information in my report, that's correct.

12 Q. Showing that those charities provided  
13 training to --

14 A. The charities provided support for the  
15 camps where the training took place. They provided  
16 essentially foundational support. So, for example,  
17 when you have a charity that's providing support to  
18 a training camp, what does that mean? Does it mean  
19 that they're providing salaries? Stipends for  
20 student welfare? Well, that's the kind of  
21 infrastructure cost that becomes part and parcel to  
22 train militants.

23 I take --

24 Q. So --

25 A. Excuse me, let me finish my response,

1     sir. I take, at face value, some of the statements  
2     made by senior officials of charities and other  
3     officials in the period of time of these wars about  
4     the effort that was being made. I also heard about  
5     them in the late 1990s. And again, the 1996  
6     report -- I've seen a report that provides some of  
7     the summaries of that.

8             Q.     And these are your basis for your -- for  
9     this statement that has no citation; correct?

10            A.     I think that the citation portion of it  
11     is what I do further on, in my report, in talking  
12     about how it happened.

13                    Again, please do not forget the framework  
14     that I took the time to lay out a little earlier in  
15     my deposition, because it's critical. While in some  
16     cases, like the IIRO cases in southeast Asia, you  
17     had direct funding for infrastructure, developments,  
18     and training, and various things, by the major  
19     charities. In other cases it was done through  
20     smaller charities locally as both the terrorist  
21     financed staff report you just brought me through on  
22     the 9/11 Commission report states.

23                    MR. LEWIS: This is Eric Lewis. I  
24                    object and move to strike the answer as  
25                    nonresponsive.

1 Q. (BY MR. MOHAMMEDI) So your report here  
2 at 4.3, you gave a specific -- and you were  
3 extremely -- you were very specific about the  
4 training of fighters; right? So are you saying you  
5 have that in your report to show that? We'll just  
6 take it a little bit, that's fine. If that's what  
7 you say, we go with that. But let me ask you  
8 another question. What WAMY text, publications, or  
9 writings you rely on claim that WAMY ever justified  
10 killing of nonbelievers? And here, I'm asking you  
11 to provide anything, coming from WAMY, not from any  
12 other place, that they are justified in the killing  
13 of nonbelievers.

14 A. I'd like to go back for a moment to the  
15 question you just asked me, because there is a  
16 sentence that you stated that I believe is not  
17 correct in its characterization of my testimony.

18 Q. Just answer the question here, please.

19 I will ask the question, there is a  
20 question pending?

21 A. The word "training" is not in the  
22 material that you have put up. And so you're  
23 mischaracterizing the paragraph. I'll now go to  
24 your next question. What was your next question  
25 again, sir?

1 Q. Sorry?

2 MR. MOHAMMEDI: Can you go back and  
3 read the question again?

4 (Whereupon, the following testimony  
5 was read by the court reporter.)

6 "QUESTION: Let me ask you another  
7 question. What WAMY text, publications, or  
8 writings you rely on claim that WAMY ever  
9 justified killing of nonbelievers? And here,  
10 I'm asking you to provide anything, coming  
11 from WAMY, not from any other place, that they  
12 are justified the killing of nonbelievers."

13 (End of readback.)

14 A. I'm not sure where the phrase  
15 nonbelievers comes from. I don't recall using the  
16 phrase nonbelievers in my report. Can you point me  
17 to a place in the report where I say that they  
18 provide support of the killing of nonbelievers?"

19 Q. (BY MR. MOHAMMEDI) I'm going to find  
20 that and show it to you.

21 Can we go off the record so I can find  
22 this statement?

23 THE VIDEOGRAPHER: Going off the  
24 record. The time is 2:46 p.m.

25 (Recess taken, 2:47 p.m. to

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1 2:47 p.m. EDT)

2 THE VIDEOGRAPHER: Back on record at

3 2:47 p.m.

4 A. Section 12.11 of my report.

5 Q. (BY MR. MOHAMMEDI) If you go 3.5 of your  
6 report, which is page 7.

7 When it says: These included  
8 indoctrinating fighters and terrorists by providing  
9 materials in mosques and madrassas that taught  
10 Muslims it was proper to kill nonbelievers (that is,  
11 Christians, Jews, those who not believing in God,  
12 such as the Soviets, and Muslims they viewed as  
13 apostates for having different views of Islam.)

14 Do you see that? That is accurate;  
15 correct?

16 A. Yes.

17 Q. Okay. So the question I have --

18 A. You asked me to provide you sources for  
19 that, and the sources --

20 Q. That's not what I was asking.

21 A. Let's repeat -- then, if we could go back  
22 and have your question repeated to me what you  
23 asked, I'm happy to respond to it.

24 Q. Sure.

25 What I said, what WAMY text publications,

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1 writings you rely on claim that WAMY ever justified  
2 killing of nonbelievers.

3 A. If we go to Section 12.11 of my report,  
4 it provides a number of specific examples.

5 Q. Section 12 of your report?

6 A. 12.11.

7 Q. Can you just -- can you just point me to  
8 where it says that specifically? Where WAMY  
9 specifically had text publication or writing --

10 A. Pages 102 and 103 of my report.

11 Q. It was quote from Kane; correct?

12 MR. HAEFELE: Objection to form.

13 Q. (BY MR. MOHAMMEDI) That was not the  
14 statement directly; right?

15 MR. HAEFELE: Objection to form.

16 A. My understanding is these come from the  
17 documents that were cited.

18 Q. (BY MR. MOHAMMEDI) Which document are  
19 you referring?

20 A. They're set forth and specified in  
21 paragraph 12.11.

22 Q. So you were saying that there are  
23 documents in WAMY, texts or publications, that  
24 justify the killing of nonbelievers?

25 A. Yes, that's my --



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1 Q. Is that correct?

2 A. That's my understanding of when they say:  
3 Who was behind the biological crisis which became  
4 like brainwashing? A Jew. And it goes on from  
5 there, and they talk about why are you so miserly  
6 with your blood.

7 Q. Okay. So to you that is --

8 A. Teach our children to love taking revenge  
9 on the Jews and the oppressors.

10 Q. Do you agree that there are hatred  
11 statements made all over the world?

12 MR. HAEFELE: Objection.

13 A. I'm not in a position to discuss -- to  
14 opine on hatred statements all over the world. This  
15 is calling for revenge on the Jews.

16 Q. (BY MR. MOHAMMEDI) And you are saying  
17 that WAMY text specifically said that we are  
18 justifying the killing of nonbelievers?

19 A. Yes.

20 Q. Okay. We'll move on.

21 I'm just going to ask you another  
22 question. You are not a religious expert, are you?

23 A. We've discussed this issue earlier.  
24 You've asked me this question. I understand a  
25 religion in a political context when religion is

1     used for political purposes as part of my  
2     understanding of relationships among states, as part  
3     of my understanding of terrorism. We had national  
4     and global security issues. And so in that context,  
5     yes. In the context of various religious doctrines,  
6     intrareligious discussions of text, there are people  
7     who spend their lifetimes as religious scholars, and  
8     that has not been my work.

9           Q.     And you're referring -- is it fair that  
10    you are referring to a document that's expressed  
11    religious views of an organization, and you are  
12    making the -- you are reaching the conclusion that  
13    was calling for justifying the killing of  
14    nonbelievers; correct?

15                   MR. HAEFELE:   Objection to form.

16           A.     Yes.

17           Q.     (BY MR. MOHAMMEDI)   You understand the  
18    meaning of jihad?

19           A.     It has multiple meanings.

20           Q.     Okay. Do you understand the meaning of  
21    Salafis?

22           A.     I believe so.

23           Q.     You do? And are you testifying as an  
24    expert here to discuss jihad and Salafis?

25           A.     Only in the context of the political

1 movements and terrorist activity which both  
2 Wahhabism and Salafism contributed to in connection  
3 with al-Qaeda in the 9/11 attacks.

4 Q. Do you believe that propagation of  
5 Wahhabism is a terrorist activity?

6 A. In and of itself, no. It depends what  
7 it's combined with. It certainly is an activity  
8 that has engendered extremism, including in  
9 societies where Wahhabism was not previously  
10 present. And there is an important distinction to  
11 be made, which is that consistent with the  
12 expression, not every Salafist is a Wahhabi, but  
13 every Wahhabiist is a Salafist. It's essentially  
14 the indoctrination in seventh century values, as it  
15 were, a very puritan and extreme version of Islam  
16 that has caused a lot of trouble in a lot of places  
17 and led to a lot of -- it led to extremist conduct.

18 And so it's the combination of that with  
19 modern political realities, and that led to things  
20 like al-Qaeda and the Islamic state. The Islamic  
21 state is, I believe, quite Salafist in its  
22 orientation, for example.

23 Q. So you -- your testimony and you are  
24 saying this -- you can address it from a political  
25 aspect, Salafism and Wahhabism, the way you

1 described them, led to 9/11?

2 A. They were part of what led to 9/11. They  
3 were not the only part, as some of the political and  
4 security decisions that were made by governments in  
5 the region for the reasons I articulated earlier in  
6 my deposition also contributed to creating an  
7 environment that allowed 9/11 to happen. The  
8 environment was an intellectual environment or a  
9 cognitive environment, which is why the Da'wah  
10 issues are so important, and it was a logistical and  
11 practical environment as well.

12 And this played out through a series of  
13 wars involving Muslims on one side and Christians or  
14 secular regimes on the other in the '80s and '90s.

15 Q. Okay. Is Section 4.9.1 - 4.9.7 at  
16 page 17.

17 I have one question I just ask you.  
18 There's no citation here, correct? Not a single  
19 citation?

20 A. That's correct.

21 Q. Thank you.

22 Just bear with me just a second. I'm  
23 just going through my notes.

24 In your section 5.3.4, page 21 --  
25 actually, we addressed this one. I'm sorry, we

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1 addressed this one.

2 I will go to page 22-23 of your report.

3 The 9/11 Commission report states, and  
4 this is -- which is 907. At page 169.

5 It says: The origin of the funds remains  
6 unknown, although we have a general idea of how  
7 al-Qaeda financed itself during the period leading  
8 up to 9/11.

9 Do you see that statement?

10 A. I don't.

11 Q. It's page -- it's page 169 of the report.  
12 Do you see that?

13 A. Yes, I do.

14 Q. And page 172, it says -- if you go to  
15 page 172.

16 Are you there? Okay. Yes.

17 It says: To date -- and they're all  
18 highlighted -- the U.S. government has not been able  
19 to determine the origin of the money used for the  
20 9/11 attacks.

21 Do you see that?

22 A. Yes.

23 Q. Okay. And then page 172 says: Our  
24 knowledge of the funding during the period before  
25 the operatives entered the United States remains

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1     murky.

2                     You see that, correct?

3             A.     Yes.

4             Q.     If we go to exhibit -- the monograph  
5     exhibit. Which exhibit is that?

6                     909.

7                     And that will be page 144, which is 147  
8     of the PDF.

9                     Just go to the page, if you can.

10                    Okay. It says: To date, the U.S.  
11     government has not been able to determine the origin  
12     of the money used for the 9/11 attacks. As we have  
13     discussed above, the compelling evidence appears to  
14     trace the bulk of the funds directly back to KSM  
15     and, possibly Qatari, but no further. Available  
16     information on this subject has thus far not been  
17     illuminating.

18                    You see that one; correct?

19             A.     Yes.

20             Q.     We can -- you can bring this down.

21                    If you go to Section 6.4 of the report.

22                    In section 6.4, which is page 23, you  
23     state that the U.S. government officials you spoke  
24     to during your tenure as Deputy Assistant Secretary  
25     of State for International Law Enforcement -- 1994,

1 '99 -- and in days after 9/11 expressed views  
2 consistent with information developed by various  
3 further government agencies before and after 9/11  
4 about the role of charities.

5 Who did you speak to?

6 A. While I was in the U.S. government or  
7 afterwards?

8 Q. In the U.S. government. And afterwards.

9 A. Oh, Dick Clarke, William Wechsler, Lee  
10 Wolosky, Mike Sheehan, Joseph Meyers, Stuart Levey,  
11 Juan Zarate. Those are the ones that come to mind.

12 Q. And is it -- I think the previous  
13 testimony said there were expressions of concern;  
14 correct?

15 A. You're referring there to their  
16 statements about the charities that they made in  
17 public testimony and separately to the official  
18 démarche that was drafted or expressed by the  
19 United States government. There were actually a  
20 series of them, I believe, in the 00s going up to  
21 2009. Yes. This paragraph, of course, refers to  
22 the material in 6.3.

23 Q. Okay. And that's the source of the  
24 information that you're referring to?

25 A. Paragraph 6.4 says: Without exception,

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1 these officials expressed views consistent with the  
2 assessments quoted above from the conclusions of the  
3 9/11 Commission.

4 Q. And those testimony before the 9/11  
5 Commission that you are referring, are you referring  
6 to the testimony before the 9/11 Commission?

7 A. I'm referring to the quotes in  
8 paragraph 6.3. That 6.3.1, 6.3.2, 6.3.3, and 6.3.4.

9 Q. And based on that information, you  
10 concluded the material support for 9/11 in this  
11 report by the charities; correct?

12 MR. HAEFELE: Objection to form.

13 A. I don't believe that your statement is  
14 the same as what I said here or elsewhere in my  
15 report, so I really don't know exactly what the  
16 question is other than I think you're assuming  
17 things in your question which are not the same as  
18 what I've said.

19 Q. (BY MR. MOHAMMEDI) Is it fair to say  
20 that in your report there is not one single fact to  
21 connect material support to 9/11 from the charities?

22 A. No.

23 Q. Or is that something I'm not accurate?

24 MR. HAEFELE: Objection to form.

25 A. I can explain --



1 Q. (BY MR. MOHAMMEDI) I'm not asking you to  
2 explain. If you can tell me, am I correct or I'm  
3 not correct, that's in your report, or you do not  
4 have one single fact to connect 9/11 terrorist act  
5 to the charities. "Yes" or "no?"

6 MR. HAEFELE: Objection to form.

7 A. My report says clearly that the 540,000  
8 to \$550,000 spent on the logistics for the 9/11  
9 attack are not the only material support that was  
10 relevant to what happened. It says that expressly  
11 and so does the 9/11 Commission report.

12 Q. (BY MR. MOHAMMEDI) In Section 7.1, which  
13 is -- which I'm going to list from 6.1.1 to 7.1 --  
14 7.1.1 to 7.1.11 page 37.

15 You continue to state indoctrinating  
16 fighters and terrorists by providing education and  
17 the religious materials in mosques and madrassas  
18 that taught Muslims it was proper to kill  
19 nonbelievers. You are repeating this by the way.  
20 But there was no -- again, you know, the first one  
21 was an executive summary, right? We understand  
22 there was no citation. But here, you are explaining  
23 the three -- the Section 3. But again, you provide  
24 this information, and you have not provided any  
25 citation; correct?

1 MR. HAEFELE: Objection to form.

2 A. There's no citation in that paragraph.

3 I'm asked a new question here. This is in response  
4 to question 7.

5 How did the money and other resources  
6 provided by purported charities enhance al-Qaeda's  
7 global strike capabilities and enable it to carry  
8 out 9/11.

9 So I was covering, at the first end of  
10 this -- first part of this paragraph, the -- it's  
11 just actually a summary response to the question  
12 that's asked. That's the first part of it.

13 As it goes on, there are a series of  
14 footnotes that provide further information on this,  
15 including citations to al-Fadl -- al-Fadl and so on.

16 Q. (BY MR. MOHAMMEDI) So has 7.1.2, again,  
17 you have -- you said helping to recruit the fighters  
18 and terrorists through the propagation process.  
19 There's no citation; correct?

20 A. In paragraph 7.1?

21 Q. 7.1.2.

22 MR. HAEFELE: Form.

23 A. I'll repeat what I just said.

24 Q. (BY MR. MOHAMMEDI) I'm just asking, is  
25 there a citation there or not? My question is very,

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1 very simple.

2 A. It's another summary.

3 Q. Okay. So 7.1.3, that has no citation;  
4 correct?

5 A. It's evidence. There's no citation  
6 because there's no citation.

7 Q. Okay. 7.1.4, there's no citation.  
8 7.1.5, no citation.

9 7.1.7, no citation. 7.1.6, no citation.  
10 7.1.8, no citation. 7.1.9, no citation.  
11 And 7.1.10, no citation. That's correct;  
12 right?

13 MR. HAEFELE: Objection to form.

14 A. Not at that location, there is not.

15 Q. (BY MR. MOHAMMEDI) Okay. Yeah.

16 In Section 7.7.3, at page 46. Again,  
17 here you do not provide any citation, and you said:  
18 A number of the most visible charities, IIRO, Muslim  
19 World League, and WAMY, at the same time supported  
20 terrorist organizations, including al-Qaeda, in  
21 areas where they had common goals, such as  
22 Afghanistan and Bosnia, or where their personnel had  
23 special interests.

24 So there's no citation here.

25 MR. HAEFELE: Objection to form.

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1 Q. (BY MR. MOHAMMEDI) What do you define as  
2 final period leading up to 9/11? What is the  
3 definition of final period leading up to 9/11?

4 A. It's a very interesting question. It  
5 certainly includes 1989 through 2001. You could  
6 make arguments about whether it included the support  
7 for the muje earlier, but the importation of foreign  
8 fighters into Afghanistan, as well as the  
9 indoctrination into Wahhabiist and Salafist  
10 doctrine, played a role in what enabled al-Qaeda to  
11 recruit fighters.

12 So that's what I mean.

13 MR. MOHAMMEDI: Okay. Can we take  
14 5-10 minutes' break, and I think we are going  
15 to another section, I prefer to stop right  
16 here, if you don't mind.

17 THE VIDEOGRAPHER: Going off the  
18 record. The time is 3:11 p.m.

19 (Recess taken, 3:11 p.m. to  
20 3:28 p.m. EDT)

21 THE VIDEOGRAPHER: We are back on the  
22 record at 3:29 p.m.

23 Q. (BY MR. MOHAMMEDI) Welcome back,  
24 Mr. Winer.

25 I have -- I'm going back to section 7,

1 and I have very specific questions related to some  
2 of the section you mentioned where I would really  
3 like to you answer, but I'm going to go one by one.  
4 There are only two.

5 7.1.3 at page 38. In addition to there  
6 being no citation, you also said: Facilitating the  
7 transport of fighters and terrorist to combat zones.

8 A. Yes.

9 Q. I'd like you to give me the facts.

10 A. Sure.

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) Can you offer the  
13 facts as they relate to WAMY now or anything in your  
14 report?

15 MR. HAEFELE: Objection to form.

16 A. I'm not sure at this moment about WAMY in  
17 particular, on facilitating the transport of  
18 fighters and terrorists.

19 Q. (BY MR. MOHAMMEDI) My question is very  
20 specific to WAMY, Mr. Winer.

21 A. Yes. In paragraph 7, I trust --

22 Q. Yeah, 7.1 --

23 A. -- the entire paragraph of paragraph 7.1  
24 refers to the charities collectively. It does not  
25 refer to particular charities. The information on

1 particular charities is specified by name.

2 Q. Okay. But there is no -- as you sit here  
3 and in your report, you don't refer to WAMY;  
4 correct?

5 A. I don't recollect referring to WAMY of  
6 facilitating transport of fighters. I would have to  
7 go back and look as to which charities were involved  
8 in that.

9 Q. Okay. And then 7.1.4. You state:  
10 Buying weapons for Islamic jihadists and terrorists?

11 A. Yes.

12 Q. What facts do you have that WAMY did  
13 this? Do you have any fact that WAMY did this?

14 A. Yes. WAMY's -- the co-head of WAMY  
15 Vienna, and the -- federal relief agency was  
16 involved in these activities, both by public  
17 accounts and by some of the materials that were  
18 looked at in the audit.

19 And he was in both roles, according to a  
20 primary source document that I reviewed as well as  
21 two statements that he made.

22 Q. You're referring to the Bosnian war;  
23 correct?

24 A. Yes.

25 MR. HAEFELE: Objection to the form.

1 A. In that case.

2 Q. (BY MR. MOHAMMEDI) And you believe  
3 that's terrorist activity?

4 A. I believe it contributed to later  
5 terrorism. And as you -- in connection with the war  
6 itself, there was not -- the activities of the  
7 fighters on all sides were not pristine.

8 As you may remember from that war, there  
9 were war crimes and military activities going all  
10 the way around. So it's --

11 Q. And those war crimes were committed  
12 against Muslims; correct?

13 A. Yes. And others, not just Muslims.

14 Q. Okay. I'm going to start, and I'm going  
15 to go through if you go to Section 12.10.3 at  
16 page 101.

17 You refer to the GTMO issue; correct?

18 A. Yes.

19 MR. HAEFELE: Objection. Object to  
20 form.

21 Q. (BY MR. MOHAMMEDI) And then you're  
22 referring to assessment in Adel Hamat case; correct?

23 A. Yes.

24 Q. And then in that one, you state: -- you  
25 state, and you refer to it in footnote 196: WAMY is

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1 non-governmental organization operating in  
2 Afghanistan that may be affiliated with Osama bin  
3 Laden and al-Qaeda operations.

4 You cite an unclassified summary of  
5 evidence for administrative review board in the case  
6 of Ameer, Mammar; correct?

7 A. Yes.

8 Q. "Maybe" is not a legal standard, is it?

9 A. "Maybe" is not a legal finding by the  
10 United States government on that point in that  
11 document, that's correct. All of these are  
12 statements made in connection with that case, as  
13 statements of the U.S. government's view, which I'm  
14 happy to go further on, but I want to make sure I  
15 don't go beyond your question, so I'll stop there.

16 Q. I appreciate that. Thank you.

17 I'm going to enter as exhibit -- this is  
18 15, for us. The Summary of Administrative Review  
19 Proceedings.

20 (Winer Deposition Exhibit 910,  
21 Summary of Administrative Review  
22 Board Proceedings for ISN 940, was  
23 marked for identification.)

24 Q. (BY MR. MOHAMMEDI) You, in footnote 197,  
25 seems like you're citing to the Summary of



1 Administrative Review Board Proceedings; is that  
2 correct?

3 A. That's what the citation says; that's  
4 right.

5 Q. And it's undated, correct? There's no  
6 date here?

7 A. I'm sorry, I couldn't understand you just  
8 now.

9 Q. There is no date here; correct?

10 A. Not on this page.

11 Q. And then, in your footnote 97 you said:  
12 The U.S. government has also stated according to top  
13 WAMY officials, both United States and Israel must  
14 be destroyed; correct?

15 A. That's what the footnote says.

16 Q. What do you mean by U.S. government?

17 A. Sure. The way in which the United States  
18 government works, when someone is engaged in this  
19 kind of a process, is they're doing it according to  
20 a variety of designations that they have made.

21 So, for example, as I explain in my  
22 report, a Tier 1 NGO is defined as a particular  
23 definition. And that particular definition is  
24 having demonstrated sustained and active support of  
25 a terrorist organization, willing to attack U.S.

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1 persons or interests.

2 But before I go on, what I would like to  
3 do is to look at this entire document for a minute,  
4 rather than just this one page.

5 Q. Yeah. I mean, Mr. Winer, the only  
6 thing -- I'm ask -- I'm going to ask you about some  
7 of the document.

8 A. Just give me --

9 Q. Bear with me.

10 A. You have asked me a question, and I would  
11 like to -- in order to answer the question properly,  
12 I would like to take a minute to review the  
13 document.

14 May I do that?

15 MR. HAEFELE: Yes, Jonathan, you may.

16 MR. MOHAMMEDI: I am not asking you  
17 about this document, I'm asking you about the  
18 report where you making the statement.

19 MR. HAEFELE: Yeah, but you've asked  
20 him about the document. If there's something  
21 in the document, he feels the need to review  
22 the document, we've --

23 MR. MOHAMMEDI: I have no question  
24 pending, Robert.

25 MR. HAEFELE: Omar, we've

1 consistently -- well, but there is a question  
2 out there that he may not be finished  
3 answering. So to the extent that he feels the  
4 need to look at the document, we've  
5 consistently done that. We've allowed your  
6 experts do it. If you're not allowing our  
7 experts to do it, then just tell us you're not  
8 allowing our experts to review documents in  
9 order to answer questions.

10 MR. MOHAMMEDI: I'm just going to the  
11 proposition that U.S. government has stated  
12 that according to top WAMY officials, both  
13 United States and Israel must be destroyed.  
14 That's what I'm referring to, his statement.  
15 The witness --

16 MR. HAEFELE: And if he feels the  
17 need to review the document that you've put on  
18 the screen in front of him, he may. If he  
19 doesn't feel the need to do it, I'm not  
20 pushing him to do it, but --

21 MR. MOHAMMEDI: I'm not asking --  
22 thank you. I'm not asking the witness to do  
23 that. I'm just asking about the meaning of  
24 U.S. government.

25 MR. HAEFELE: Omar, I understand what

1           you're asking, but you're asking questions of  
2           the witness and you have the document on the  
3           screen. It's related to the question.

4                   MR. MOHAMMEDI: Can we put that  
5           document down for now and then we can go back  
6           to it.

7                   MR. HAEFELE: Mr. Winer, do you feel  
8           the need to review the document to answer any  
9           question at the moment?

10                   THE WITNESS: I do.

11                   MR. MOHAMMEDI: The question is not  
12           about the document itself. The question is,  
13           it's different questions. We will -- we'll  
14           get back to it, if we have to.

15                   MR. HAEFELE: Mr. Winer --

16                   MR. MOHAMMEDI: Not really --

17                   MR. HAEFELE: Omar, stop. Omar, just  
18           wait.

19                   MR. MOHAMMEDI: I am asking specific  
20           questions what he's saying in his report.

21                   MR. HAEFELE: I don't know whether  
22           he's done with the last question is my point.  
23           I don't know if he's done answering that  
24           question, and if he feels the need to review  
25           the document to complete his answer. I don't

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1 know.

2 MR. MOHAMMEDI: Here's my question --

3 I have a question and then you can review --

4 MR. HAEFELE: Omar, I am telling you,  
5 I am instructing the witness not to answer any  
6 question until he's finished answering his  
7 question that he has already been -- that has  
8 already been posed.

9 MR. MOHAMMEDI: What is the question  
10 that you are talking about?

11 MR. HAEFELE: It's up to the witness.

12 MR. MOHAMMEDI: So the question is  
13 very clear of what I am saying --

14 MR. HAEFELE: I didn't say it was --

15 MR. MOHAMMEDI: -- meaning by U.S.  
16 government. That's the question.

17 That's it. That's the question. You  
18 don't have to review the document to know what  
19 is the U.S. government, do you?

20 MR. HAEFELE: Apparently Mr. Winer  
21 feels the need to. I'm not suggesting that it  
22 has --

23 MR. MOHAMMEDI: I'm not asking about  
24 the content of the --

25 MR. HAEFELE: Omar, we've been

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1 fighting over this, but the witness could have  
2 reviewed the document in that time if you  
3 would just let him do it.

4 Q. (BY MR. MOHAMMEDI) Okay. Let me ask  
5 Mr. Winer, let me ask you one question.

6 MR. HAEFELE: Let the record reflect  
7 that Mr. Omar Mohammedi is not allowing the  
8 witness to review the document that he has  
9 asked to review before he answers the  
10 question.

11 MR. MOHAMMEDI: And let the record  
12 reflect that I'm not asking about the document  
13 itself.

14 Q. (BY MR. MOHAMMEDI) Is the Office for the  
15 Administrative Review of the Detention of Enemy  
16 Combatants at U.S. Naval base Guantanamo Bay Cuba  
17 the entire government?

18 A. That's a slightly different question from  
19 the question you asked before.

20 Q. That's what I was going to ask you. Yes.

21 A. It will take me a minute to answer the  
22 question. I don't need to look at the document  
23 immediately to answer the question, but it would be  
24 helpful to me to look at the document and footnote  
25 197. That said, since there's no document in front

1 of me, I'll try to explain as best I can.

2 Q. Go ahead.

3 A. Subject to further explanation when I  
4 look at the document for a footnote 197, because I  
5 believe it to be relevant.

6 The way in which the U.S. government  
7 works, when it talks about something like a Tier 1  
8 NGO, and its definition, or a statement about an  
9 organization like WAMY in connection with Guantanamo  
10 is it's taking essentially a summary of findings,  
11 which can be at various levels of certainty, but are  
12 finding that someone is a Tier 1 NGO, it has a  
13 particular national security implication.

14 The United States government as a  
15 government, involving coordination by the National  
16 Security Counsel at the White House, the U.S.  
17 military and U.S. intelligence agencies, the State  
18 Department, treasury, other agencies participate,  
19 but it's in particular driven by the NSC and whoever  
20 the National Security Council wants to have, goes  
21 through a process for intelligence purposes and for  
22 national security purposes of providing tiers of  
23 focus in various categories for collection and  
24 analysis. And so that has -- it's a very formal  
25 process for a formal meeting.

1 Q. Okay.

2 A. So you've asked me about this, what I  
3 coined the U.S. government. This material appeared  
4 in one of the documents I reviewed. It's not in the  
5 document that you had me look at just now. It might  
6 be in the next document, 197; I'd have to look. But  
7 these findings or these statements were in the  
8 materials that were provided to me, and I recognized  
9 the kind of statements it is, which is the -- it's  
10 the kind of statement of -- doctrine isn't quite the  
11 right word. Policy isn't quite the right word.

12 It's more or less a -- it's a judgment  
13 reflecting your priority of being given a target by  
14 the United States government, and then it's a  
15 judgment of what the target is, and then, in the  
16 case of -- or maybe that is an analytic question  
17 that they're seeking to answer in part at that time.  
18 If they knew that the answer was, yes, it's al-Qaeda  
19 affiliated at that moment in time, they would say it  
20 is al-Qaeda affiliated. So that's what that  
21 document means.

22 On the quote according to top WAMY  
23 officials, that relates to a different document than  
24 the document you showed me, which is why I wanted to  
25 look at both of those documents before providing my



1 answer.

2 Q. Okay. I appreciate that.

3 Now, let me ask you, Mr. Winer, which is  
4 the standard for a tiered designation conducted?

5 A. I'm sorry?

6 Q. Which is the standard for a tier  
7 designation conducted?

8 A. It's a national security standard. It  
9 reflects our national security judgment being made  
10 by the national security components of the  
11 United States government.

12 Q. Okay. Is there a burden of proof for a  
13 Tier 1 designation?

14 A. It's not an adversarial legal proceeding  
15 with a judge. With an outside judge. There is  
16 typically on any of these designations, including  
17 the big national security designations, very  
18 extensive legal review by lawyers from multiple  
19 agencies looking at it in connection with the  
20 president's apparent constitutional authorities, any  
21 delegations of authority such as delegations of  
22 authority made to the president following 9/11 by  
23 the Congress, and whatever other legal standards are  
24 in place, depending on the use of the information --

25 Q. And can it -- sorry.

1           A.     An array of assessments that go into the  
2     making or characterization of who's going to be  
3     designated in that way. And that's probably enough  
4     to say about it, because in this case, I was not in  
5     the government at the time this was made, did not  
6     participate in this particular process. I'm  
7     describing what's true in general of these processes  
8     as I participate and understand it. But I wasn't  
9     involved in this one.

10          Q.     Okay. But my question was under  
11     standard, and I was looking, if you can answer me  
12     the standard for a Tier 1 designation.

13                     And you don't have the answer, then  
14     that's fine. We can move on.

15          A.     I believe that I just answered the  
16     question. I'll try and answer it again.

17                     The standard is --

18          Q.     I'm sorry --

19          A.     The standard is, it must be  
20     constitutional, it must fall within the president's  
21     rights under both his inherent rights under the  
22     Constitution as commander in chief, or her rights.  
23     It must also fall within all appropriate delegations  
24     of authority by Congress. Plus any other criteria  
25     that have been developed by law or regulation to

1 govern that process.

2 So it will be reviewed from all of those  
3 perspectives. It may well also have been reviewed  
4 from other perspectives if it was going to be used  
5 in connection with an external legal process.

6 Q. Can an NGO designee challenge the  
7 designation in this process?

8 A. No. No, to the best of my knowledge, no.

9 Q. Is there any due process procedure for  
10 seeking in these matters?

11 MR. HAEFELE: Objection to form.

12 A. There's due process proceedings that  
13 apply to designations undertaken by OFAC. In these  
14 national security processes, in terms of who is  
15 designated as a Tier 1, I don't believe there are  
16 any. However, you're beginning to get into  
17 Guantanamo territory, where you have this very  
18 complex array of laws as to what is proper and what  
19 is not proper when it intersects with the criminal  
20 justice system and when it doesn't. And in that  
21 highly technical area, I would have to do a great deal  
22 of additional study before being able to provide  
23 further guidance.

24 Q. (BY MR. MOHAMMEDI) But you did have that  
25 in your report, right? You did explain Guantanamo,

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1 GTMO, in your report?

2 A. Yes. But there -- what I'm saying is in  
3 order to discuss civil law standards and the  
4 opportunity -- where the opportunities might be for  
5 it to intersect with U.S. civil laws, that would  
6 require further study. That was not within the  
7 scope of what I looked for.

8 Q. Do you know if Mammar Ameer worked for  
9 WAMY? You mentioned his name.

10 A. I believe there are references to WAMY in  
11 the documents that you briefly showed me the first  
12 page of. I would prefer to go to that document in  
13 order to provide a fuller answer.

14 Q. Just give me a second, please.

15 We can come back to this one, because we  
16 need to look at the document. Let's move on to  
17 another section.

18 A. Just to complete your answer, I think he  
19 said he worked for WAMY for three years.

20 Q. That's what he said. That's what you  
21 believe. And did you do any independent  
22 investigation to find out if he worked for WAMY or  
23 not?

24 A. I don't know how I could have possibly  
25 done that in the period between my retention in

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1 December 2019 and the period of producing the  
2 report, and I did not.

3 Q. Are you familiar with the name Colonel  
4 Wilkerson, from Secretary of State Colin Powell's  
5 office?

6 A. Are you talking about Larry Wilkerson?

7 Q. I believe so, yes.

8 A. Yes. I know him.

9 Q. You know him, right?

10 A. Yes.

11 Q. Good. What do you think about him?

12 A. He's a complex person.

13 Q. That's nice way of saying it. When you  
14 say complex, I mean, do you find him credible?

15 MR. HAEFELE: Objection to the form.

16 A. It depends on what he's talking about.  
17 It depends on what the issue is. He has very strong  
18 opinions on a variety of topics.

19 Q. (BY MR. MOHAMMEDI) Did you review his  
20 declaration?

21 A. I don't remember at this moment  
22 Colonel Wilkerson's declaration.

23 Q. I don't believe you did, because we don't  
24 have it in your reliance material.

25 A. Yeah, I don't remember reviewing it.

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1           Q.     If you can just put exhibit up for our  
2     purpose 16, perhaps.

3                     (Winer Deposition Exhibit 911,  
4                     Declaration of Colonel Lawrence B.  
5                     Wilkerson (Ret.), was marked for  
6                     identification.)

7           Q.     (BY MR. MOHAMMEDI) Have you seen this  
8     document?

9           A.     No.

10          Q.     You have not seen this document. Do you  
11     know this document is in the production?

12          A.     No.

13          Q.     I am going to direct you to paragraph 9.  
14     That's A-E, which is page 4-5.

15                     Do you want to take a minute to read it?

16          A.     Yes, I do. I'd like to be able to read  
17     the entire document before I --

18          Q.     So in that case, we'll --

19          A.     As I've not seen it before.

20          Q.     Sure. We'll go off the record while  
21     you're reviewing, Mr. Winer.

22                     THE VIDEOGRAPHER: We'll go off the  
23     record. The time is 3:52 p.m.

24                     (Recess taken, 3:52 p.m. to  
25     3:54 p.m. EDT)

1 THE VIDEOGRAPHER: We are back on the  
2 record. The time is 3:54 p.m.

3 Q. (BY MR. MOHAMMEDI) The question I guess  
4 you -- you just had the chance to review his  
5 declaration. Do you -- do you agree or disagree  
6 with his statement, paragraph 9, A to E?

7 And I just need to know if you agree with  
8 his agreement. I don't need more information.

9 A. I can't answer that with an agree or  
10 disagree response, sir.

11 Q. Why not?

12 A. Because he makes many statements here,  
13 not one statement. And I have not, myself, gone  
14 through Mr. Hamad's case to determine whether he was  
15 wrongfully seized and detained, whether he was  
16 innocent, guilty, partly guilty, partly innocent. I  
17 can't assess any of those things. I can say that  
18 Guantanamo is a serious failure of U.S. policy, and  
19 that the way in which the United States approached  
20 Guantanamo was not consistent with my values. I  
21 believe that people should be -- matters should be  
22 tried in court; and for Mr. Hamad, he was not able  
23 to be tried. And that's a fundamental issue.

24 So having him able to be tried is  
25 important. This is separate from the question that

1     you asked me earlier about the U.S. findings, which  
2     are separate from and not addressed by Colonel  
3     Wilkerson's statement, now that I've read it.

4             Q.     Okay. Thank you. I appreciate your  
5     answer on this.

6                     We can bring this down.

7                     Has WAMY ever been designated under OFAC  
8     treasury of justice?

9             A.     No, it has not.

10            Q.     Was LBI, which is Lajnat al-Birr  
11     al-Islamiah -- I spell it for you -- LBI was ever  
12     designated?

13            A.     I don't believe it was, no, sir.

14            Q.     Previous -- I guess you -- you made --  
15     sorry, strike that.

16                     I will enter into exhibit -- it's our  
17     Exhibit 17. It is a link to a video testimony of  
18     the Undersecretary of Department of Treasury to the  
19     9/11 Commission, Richard Newcomb.

20                     (Winer Deposition Exhibit 912,  
21                     Terrorism Financing Hearing 2003  
22                     video clip, was marked for  
23                     identification.)

24                     TRIAL TECHNICIAN: This is a  
25     five-minute video.



1 MR. MOHAMMEDI: I'd like Mr. Winer to  
2 watch it all.

3 Q. (BY MR. MOHAMMEDI) So it's -- it is a  
4 video -- it's before -- let me see here.

5 Testimony of undersecretary before the --  
6 if you go before the -- before the -- let me see.  
7 Hold one second before I just --

8 MR. MOHAMMEDI: Can you hold on a  
9 second? Can we go off record just while I'm  
10 looking for a second, please?

11 THE VIDEOGRAPHER: Going off the  
12 record. 3:59 p.m.

13 (Recess taken, 3:59 p.m. to  
14 4:01 p.m. EDT)

15 THE VIDEOGRAPHER: We're back on the  
16 record. The time is 4:01 p.m.

17 Q. (BY MR. MOHAMMEDI) The exhibit is  
18 July 31, 2003. Testimony before the Senate  
19 Governmental Affairs Committee on Terrorism Finance  
20 Commission.

21 Do you know Richard Newcomb?

22 A. Yes.

23 MR. LEWIS: So I would like to just  
24 go to the exhibit where Senator Specter was  
25 asking the questions. If you could just play

1           that for us.

2                         [Exhibit 912 - video played]

3                         SEN. ARLEN SPECTER: We will now  
4           proceed with questioning, five-minute rounds,  
5           and the chairwoman has deferred to me for the  
6           first round.

7                         Mr. Newcomb, in interviews by staff  
8           preparatory to your coming here, you advised  
9           that a good many of your recommendations for  
10          sanctions are rejected. Would you amplify  
11          what has happened on that?

12                        RICHARD NEWCOMB: Yes, Senator. In  
13          identifying key nodes, our responsibility is  
14          to identify how these terrorist organizations  
15          fit their activities together. Who are --

16                        SEN. ARLEN SPECTER: After you've  
17          identified them and made the recommendation --  
18          I only have five minutes, so I want to focus  
19          very sharply on the rejections on the  
20          recommendations which involve Saudi sources.  
21          Precisely what has happened on that?

22                        RICHARD NEWCOMB: Well, the  
23          designation, as we indicated in our  
24          discussions, is not the only possible action.  
25          There's also law enforcement, intelligence.

1                   SEN. ARLEN SPECTER: Well, let's  
2                   focus on economic sanctions, which is my  
3                   question, before we go into other possible  
4                   actions. I want to know about the  
5                   recommendations on economic sanctions as to  
6                   Saudis, which have been turned down.

7                   RICHARD NEWCOMB: Senator Specter,  
8                   we've made numerous recommendations including  
9                   relating to Saudi Arabia and other terrorist  
10                  support organizations and groups. This goes  
11                  through a policy coordinating PCC process  
12                  where all of the equities of the government  
13                  come to the table.

14                 SEN. ARLEN SPECTER: Well, my  
15                 question -- my question -- my question focuses  
16                 on recommendations which you have made for  
17                 sanctions as to Saudi organizations which have  
18                 been rejected.

19                 RICHARD NEWCOMB: Well, first let me  
20                 say, it's not -- it's the policy not to  
21                 comment on internal policy deliberations  
22                 within the government. I can tell you, these  
23                 issues have been discussed with all of the key  
24                 players at the table. And when there's  
25                 another possible action that can be taken,

1 we've achieved our goal by teeing issues up.

2 There are --

3 SEN. ARLEN SPECTER: I'm not asking  
4 you about internal deliberations, I'm asking  
5 you -- and let me be -- let me be specific  
6 with some organizations which have been  
7 discussed with you by staff prior to your  
8 coming here. Were there recommendations as to  
9 the National Commercial Bank of Saudi Arabia  
10 for economic sanctions which were rejected?

11 RICHARD NEWCOMB: No,  
12 Senator Specter, there was not.

13 SEN. ARLEN SPECTER: Were there  
14 recommendations for sanctions against the  
15 World Assembly of Muslim Youth?

16 RICHARD NEWCOMB: There, as in  
17 others, these are issues that we looked at and  
18 examined very carefully. There was no  
19 recommendation out of our office on either of  
20 those.

21 SEN. ARLEN SPECTER: Well, what  
22 conclusions did you come to on the World  
23 Assembly of Muslim Youth?

24 RICHARD NEWCOMB: That, along with  
25 the whole variety of charitable organizations

1 operating head offices in Saudi or  
2 organizations that we're looking at, as well  
3 as the whole range of several hundred or so  
4 possible organizations that may be funding  
5 terrorist activities, rising to the level of a  
6 recommendation is a complicated policy  
7 practice --

8 SEN. ARLEN SPECTER: Well, I'm not  
9 concerned about several hundred others. I'd  
10 like to know what about the World Assembly of  
11 Muslim Youth. Were they funding terrorist  
12 organizations subject to economic sanctions  
13 without any action being taken?

14 RICHARD NEWCOMB: I can't conclude  
15 that in this hearing today. It is an  
16 organization that we --

17 SEN. ARLEN SPECTER: You say you  
18 can't conclude it --

19 RICHARD NEWCOMB: Cannot. Cannot.

20 SEN. ARLEN SPECTER: -- at this  
21 hearing today?

22 RICHARD NEWCOMB: Well, we did not  
23 conclude that in our deliberations, so I can't  
24 say that that was a recommendation of our  
25 office.

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1                   SEN. ARLEN SPECTER: How about the  
2                   International Islamic Relief Organization,  
3                   were there recommendations for sanctions there  
4                   which were rejected by higher officials in the  
5                   Treasury Department?

6                   RICHARD NEWCOMB: This is an issue  
7                   that we'd looked at. And again, your question  
8                   relates to policy deliberations within the  
9                   administration which I can't comment on. I  
10                  can tell you we did look at --

11                  SEN. ARLEN SPECTER: I'm not  
12                  interested in your policy deliberations. What  
13                  I'm interested in is your conclusions. Were  
14                  there economic sanctions taken against the  
15                  International Islamic Relief Organization?

16                  RICHARD NEWCOMB: To date -- there  
17                  have not been as of this date.

18                  SEN. ARLEN SPECTER: Do you think  
19                  there should be?

20                  RICHARD NEWCOMB: It's something that  
21                  we would look at very carefully along with the  
22                  others participating in the policy process.

23                  SEN. ARLEN SPECTER: Well, when you  
24                  look at it very carefully, how long have you  
25                  been looking at it up until now?

1 RICHARD NEWCOMB: Certainly since  
2 immediately in the aftermath of 9/11.

3 SEN. ARLEN SPECTER: Well, that's  
4 almost two years. How long will it take you  
5 to come to a conclusion?

6 RICHARD NEWCOMB: We can recommend  
7 and we can designate, but there is a policy  
8 process which takes into account all of the  
9 variety of --

10 SEN. ARLEN SPECTER: I've got  
11 16 seconds left. Had you recommended this to  
12 any of the organizations I've mentioned to  
13 you, some tough economic sanctions which were  
14 turned down by higher officials implicitly  
15 because they were Saudi organizations?

16 RICHARD NEWCOMB: I can't say it's  
17 because they were Saudi organizations.

18 SEN. ARLEN SPECTER: Well, can you  
19 say whether they were turned down?

20 RICHARD NEWCOMB: I can say there  
21 have been some charities and other  
22 organizations that we've considered, we've had  
23 at the table, and that have been deferred for  
24 other actions which I would deem as  
25 appropriate.

1                   SEN. ARLEN SPECTER: Well, my red  
2                   light went on in the middle of your last  
3                   answer, but I'll be back.

4                   RICHARD NEWCOMB: Okay.

5                   [Video concluded]

6           Q.       (BY MR. MOHAMMEDI) Mr. Winer, from 2003  
7           until today, which is 2021 -- and you answered this,  
8           but I want to make sure that I will ask this  
9           question based on this testimony: WAMY has never  
10          been subject to economic sanctions or designation by  
11          U.S. government; correct?

12          A.       You dropped off at the end of the  
13          sentence. What I heard is are you asking me whether  
14          WAMY has ever been designated by OPP? Is that the  
15          question?

16          Q.       Correct, from 2003 until today, which is  
17          2021.

18          A.       It has not.

19          Q.       Do you -- are you aware that WAMY  
20          International, which is WAMY USA, exists in  
21          Virginia?

22          A.       Yeah, I believe so. I believe so. It's  
23          not something I focused on, but I believe so.

24          Q.       Let's have the Exhibit 18. Just want to  
25          make sure for the record to put that into evidence.



1 (Winer Deposition Exhibit 913, WAMY  
2 International, Inc. 2021 Annual  
3 Report, was marked for  
4 identification.)

5 MR. HAEFELE: What is Exhibit 18? Do  
6 you mean --

7 MR. MOHAMMEDI: Yeah, it is WAMY  
8 registration of 2021. And this is a  
9 registration for WAMY International with the  
10 Commonwealth of Virginia State Corporation  
11 Commission.

12 MR. HAEFELE: Just so we're clear,  
13 it's Exhibit 913.

14 MR. MOHAMMEDI: Exhibit 913, correct.

15 Q. (BY MR. MOHAMMEDI) You didn't consider  
16 this in your material when you were rendering your  
17 opinion, correct?

18 A. This document is dated January 23, 2021,  
19 so I did not consider it in my report that was  
20 written some months before.

21 Q. (BY MR. MOHAMMEDI) Mr. Winer, if I  
22 represent to you that all the registration of WAMY  
23 International from that time until 2020 was  
24 submitted and were produced to plaintiff counsel,  
25 would you agree with me?

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1 MR. HAEFELE: Object to the form.

2 A. Would I agree with you on what, sir?

3 Q. (BY MR. MOHAMMEDI) We have produced the  
4 documents, the registration documents, for every  
5 year including -- every year up to 2020, I believe,  
6 to you -- to the lawyers who hired you in this  
7 production --

8 A. Yes.

9 Q. -- of this case production.

10 A. What's the question, please?

11 Q. The question -- so you said this was  
12 2021, and you did not review. And the question, are  
13 you aware that WAMY produced all registrations of  
14 WAMY prior to 2021?

15 A. I was not aware of that production, but I  
16 did understand WAMY was still out there, as I said  
17 to you a minute ago.

18 Q. We can take that down.

19 MR. MOHAMMEDI: Can we take a  
20 five-minutes break?

21 THE VIDEOGRAPHER: Going off the  
22 record. 4:11 p.m.

23 (Recess taken, 4:10 p.m. to  
24 4:18 p.m. EDT)

25 THE VIDEOGRAPHER: Back on record at

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1 4:18 p.m.

2 Q. (BY MR. MOHAMMEDI) Mr. Winer, are you  
3 aware of any person who attended madrassas, as you  
4 mentioned from WAMY, WAMY madrassas, that became a  
5 member of al-Qaeda?

6 A. I don't know who attended WAMY madrassas  
7 and who did not.

8 Q. But you are not aware of anyone who was  
9 at the madrassas that became a member of al-Qaeda?

10 A. I do not know what madrassas incubated  
11 which fighters and which terrorists, period.

12 Q. Okay. So the question you are not aware  
13 of anyone who attended madrassas, it doesn't matter  
14 which type of madrassas, that became a member of  
15 al-Qaeda.

16 A. I know that there are people who became  
17 members of al-Qaeda who attended madrassas.

18 Q. What about WAMY?

19 A. I don't know which madrassas they  
20 attended, whether they were related to WAMY or any  
21 other organization that sponsored a madrassas.

22 Q. So as you sit here, you don't "know"  
23 know; correct?

24 A. That's correct.

25 Q. Let's go to your report, Section 12,

1 which starts with page 104-110.

2 In your affirmative report, you refer to  
3 Adel Batterjee as chairman of WAMY and global  
4 chairman of WAMY. Do you remember that?

5 A. Yes.

6 Q. At that time you did not review WAMY  
7 documents; correct?

8 A. I had reviewed some WAMY documents. I  
9 relied on his identification of himself as that role  
10 to the New York Times. That's not correct. I  
11 corrected it in my rebuttal report.

12 Q. And you corrected that in your rebuttal  
13 report; correct?

14 A. I did.

15 Q. Okay. But then you mentioned in your  
16 rebuttal which is 2.38.6, at page 31, if you look at  
17 it, and you refer to Batterjee was the chairman of  
18 LBI; correct?

19 A. Yes.

20 Q. Where do you get that information from?

21 A. His function and the role in the field at  
22 LBI. I don't have a footnote there. I don't  
23 recollect the source but I believe it to be  
24 accurate.

25 Q. I'm sorry, what do you say? You believe

1 the information is accurate?

2 A. I believe that he ran LBI. And in the  
3 deposition of Noor Wali, Noor Wali talks about  
4 Batterjee's central role.

5 Q. I do understand that. But you paint him  
6 as a chairman of LBI; correct?

7 A. He ran it. Did he have the formal title  
8 of chairman? I don't recollect.

9 Q. And it is fair to say you have not  
10 reviewed documents produced in this case as to the  
11 role of Batterjee with LBI; correct?

12 A. I don't think it's fair to say that. I  
13 reviewed Noor Wali's deposition, which goes into it  
14 in some depth about Batterjee's role. I reviewed  
15 other documents in which Batterjee was characterized  
16 as the founder of LBI. This includes the U.S.  
17 government, and I think the UN's findings about  
18 Batterjee, which in turn are consistent with the  
19 proffer in the Arnaout case, put together by Patrick  
20 Fitzgerald. All of this is made complicated by the  
21 fact that the word al-Barr in Arabic, A-L dash  
22 B-A-R-R, I understand to be the word that's  
23 translated often as "benevolence." And that becomes  
24 part of the elements of confusion, as well as what  
25 Batterjee was doing within LBI and what Batterjee

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1 was doing within what's known as BIF.

2 Q. Mr. Winer, really -- I think -- that is  
3 not my question, and you -- you know, we're spending  
4 a lot of time, and I don't have it. I am  
5 specifically asking you if you get this  
6 information -- where did you get this information  
7 that Batterjee was the chairman of LBI? That's the  
8 only question I'm asking.

9 A. I don't recollect.

10 Q. Okay. And then you go on in the  
11 Section 12.12.15, at page 109, and quoting the New  
12 York Times again, stated that: If a BIF worker  
13 decides he wanted to join fighting forces, we would  
14 not stop him. But he can no longer officially  
15 represent our organization; correct?

16 A. Yes.

17 Q. But that's his quote, right? That's the  
18 New York Times quote, right?

19 A. Yes.

20 Q. You comment on 12.12.16, page 110, you  
21 actually made it -- you changed that quote to say:  
22 Instead, his clear message is that nothing would  
23 change other than that a person engaged in jihad  
24 could no longer "officially" be involved in our  
25 organization. And you said WAMY there?

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1 A. Yes.

2 Q. You didn't say "our organization"; right?

3 MR. HAEFELE: Form.

4 A. I understood and believe that Batterjee  
5 was carrying out work on behalf of WAMY and LBI at  
6 the same time. And the record shows --

7 Q. (BY MR. MOHAMMEDI) Which record are you  
8 referring to?

9 A. The record from the financial documents  
10 that I looked at from the Batterjee deposition --  
11 pardon me, I misspoke. From the Noor Wali  
12 deposition, for starters. That WAMY was funding the  
13 activities of LBI in Pakistan-Afghanistan, at the  
14 time. So I believed he was acting in both  
15 capacities at that time in that location.

16 Q. That's your belief; correct?

17 A. Yes.

18 Q. If I represent to you that the  
19 document -- the documentary evidence in this case  
20 shows that LBI/BIF as separate organization, do you  
21 still rely on the government statement that does not  
22 provide evidence on this matter?

23 MR. HAEFELE: Objection to form and  
24 foundation. Misstates the evidence.

25 Q. (BY MR. MOHAMMEDI) Do you believe that a

1 government employee is always right?

2 MR. HAEFELE: Objection to form.

3 A. I'm sorry, I couldn't understand what you  
4 just said. Please repeat it.

5 Q. (BY MR. MOHAMMEDI) Do you believe a  
6 government employee is always right?

7 A. No.

8 Q. And if the documentary evidence in a case  
9 that proves the opposite of that government  
10 employee, will you consider that?

11 MR. HAEFELE: Objection, form,  
12 foundation, misstates the evidence.

13 A. I try to consider everything. In the  
14 case of Arnaout and LBI and BIF, and WAMY, you have  
15 a very complicated environment in which Arnaout and  
16 Batterjee are meeting with key people who are part  
17 of al-Qaeda early on, in which WAMY provides early  
18 support to LBI, which is simultaneously Saudi and  
19 Pakistani. LBI at some -- at some point Batterjee  
20 creates another benevolence, similarly named. So a  
21 person who previously met with Bin Laden becomes  
22 head of the U.S. organization.

23 So sorting all of that out in a way that  
24 is transparent, clean, and linear is not possible  
25 because it's all concatenation. It has to be looked



1 at together. And that's how I understand the  
2 situation.

3 Q. (BY MR. MOHAMMEDI) Isn't it a fact that  
4 because you are making a statement that BIF and LBI  
5 are intertwined and you mentioned that many times,  
6 interchangeable, based on a proffer; right?

7 That's --

8 A. No.

9 Q. Okay. So let me ask you a question.  
10 Another question.

11 It's not based on a proffer you say;  
12 correct?

13 A. It's based on all the information  
14 available to me.

15 Q. Okay. Okay. So let's go through some of  
16 the documents to show you.

17 If you put in Exhibit 26, which is --  
18 just remind me where we are.

19 TRIAL TECHNICIAN: 914, I have.  
20 (Winer Deposition Exhibit 914,  
21 Minutes of the Seventh Meeting of the  
22 Benevolence Committee's Supervisory  
23 Council, was marked for  
24 identification.)

25 Q. (BY MR. MOHAMMEDI) This is an Arabic

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1 document, translated in English, which is -- which  
2 is document that have been produced in this case.  
3 Minutes of the Seventh Annual Meeting of LBI  
4 Supervisory Council on July 8, 1993.

5 If you go to the -- I know you don't  
6 speak Arabic, Mr. Winer, but there is an English  
7 translation. Can you go down to the English  
8 translation? Or go up. I'm not sure where. It's  
9 either first.

10 Are we there?

11 A. Yes.

12 Q. No, not to you, Mr. Winer, I'm talking to  
13 the tech.

14 TRIAL TECHNICIAN: Is it not showing  
15 on your screen?

16 MR. MOHAMMEDI: It's not, no.

17 Oh, it's there.

18 Q. (BY MR. MOHAMMEDI) This meeting refers  
19 to the council approval of Dr. Hassan Bahifz Allah  
20 wanting to replace Adel Batterjee after being  
21 dismissed for an extension of six months beginning  
22 on August 1, 1993. Do you see that?

23 A. No.

24 Q. Okay. So can you go to the section --  
25 that's it.

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1                   Okay. Are you ready? Let me know when  
2     you're ready.

3           A.     I've read the material that you've  
4     provided me, in front of me in yellow.

5           Q.     Yes, the yellow pages.

6                   It is fair to say Batterjee's dismissal  
7     was in February 1993 if it was an extension of six  
8     months for the person who replaced him starting  
9     August 1993; correct?

10          A.     I don't see those dates here.

11                   TRIAL TECHNICIAN: Mr. Mohammedi, if  
12     you could just direct me to what section.

13                   MR. MOHAMMEDI: Yeah, I'm going to.

14                   Go to page 9.

15                   This one here.

16                   THE WITNESS: So is executive  
17     director the title Batterjee had rather than  
18     chair?

19          Q.     (BY MR. MOHAMMEDI) Correct.

20          A.     Then I'm corrected, it's executive  
21     director rather than chair. I accept that  
22     correction, if that's what the records show.

23          Q.     And then also, that Mr. Batterjee was  
24     dismissed, was gone in February 1993.

25          A.     Sir, where does it say that, please?

1           Q.     It says extending the one date of  
2     Dr. Hassan Bahifz Allah, and that's No. 1 of the  
3     second No. 1.

4           A.     I see that.

5           Q.     Okay. And the documents before talks --  
6     I mean, the same document talks about his -- the  
7     issue with the -- with the -- with Adel Batterjee,  
8     but here the extension of this extended the mandate  
9     of Hassan Bahifz Allah for an additional six months  
10    that was following the dismissal of Mr. Batterjee.

11          A.     Where does it say that --

12          Q.     So we're going to show you -- if you  
13    go -- if you go to page 7.

14                 Make it a little bigger.

15          A.     It says: The executive director briefly  
16    spoke in his report of the latest updates regarding  
17    the handover from the former director. I don't see  
18    the word "dismissal." I see "handover." And then I  
19    see a reference to tension and a promise was made to  
20    quickly and directly intervene to ease such tension.

21                 What is the date of the document, sir,  
22    please?

23          Q.     It's a meeting discussing the new  
24    executive director that was an extension after six  
25    months, which means Batterjee was not the executive

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1 director starting February 1993; correct?

2 MR. HAEFELE: Objection, form.

3 A. It does -- it actually doesn't say that.

4 It refers to a handover from the former director.

5 And refers to an attempt to ease the tension, which

6 suggests there are still actions to be taken. So I

7 can't assess from this when he was dismissed.

8 Q. (BY MR. MOHAMMEDI) But you can assess  
9 that he was not with LBI as of February 1993,  
10 correct?

11 MR. HAEFELE: Objection, form.

12 A. No, I cannot.

13 Q. (BY MR. MOHAMMEDI) You cannot?

14 A. I can't tell what date he left, based on  
15 this.

16 Q. If you --

17 A. If I may continue. It looks to me from  
18 this document that at some point in this period, a  
19 new executive director took over from the old  
20 executive director. It doesn't say that the old  
21 executive director was dismissed. It does say that  
22 there was tension and action going -- needed -- that  
23 needed to take place to ease the tension.

24 So the dates -- the basic idea that he  
25 was leaving the position seems to me the most

1 plausible interpretation of this. The statement  
2 that he's dismissed does not -- is not set forth in  
3 this document.

4 Q. Okay. I think we -- you know, I guess we  
5 will go through the documents.

6 If we can have Exhibits 23.

7 (Winer Deposition Exhibit 915,  
8 2-23-1993 letter to Adel Batterjee,  
9 was marked for identification.)

10 Q. (BY MR. MOHAMMEDI) Which is dated  
11 February 23, 1993.

12 That is the English version, which is  
13 FED-PEC0114419, the Arabic document.

14 And then there is a translation.

15 If you can just make that bigger.

16 Can you read it for -- I mean, you can  
17 read it to yourself if you want to.

18 A. Yes, this is consistent with Mr. Noor  
19 Wali's deposition.

20 Q. And you do not have any reason to dispute  
21 this accurate -- the accuracy of this document,  
22 right?

23 A. No, I do not. I believe this is likely  
24 to be accurate. I have no reason not to think it  
25 accurate.

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1 Q. Okay. I'm also going to include to have  
2 an exhibit, which is 25, ours. Where are we? Which  
3 number are we at?

4 (Winer Deposition Exhibit 916,  
5 5-11-1993 letter to Salman bin  
6 Abdulaziz, was marked for  
7 identification.)

8 Q. (BY MR. MOHAMMEDI) This is a letter from  
9 Dr. Al-Juhani, who was the head of Muslim -- the  
10 World Assembly of Muslim Youth.

11 A. Yes.

12 Q. Have you seen this document before? You  
13 can show the English version of it.

14 A. Yes. Thank you.

15 Q. And it's dated May 11, 1993; correct?

16 A. Yes, that's the date of it, if you'll  
17 give me a minute, please.

18 Q. Have you seen this document before?

19 A. I need to read it to remember whether  
20 I've seen it before or not.

21 Q. Sure. Just the highlighted sections.

22 A. Yeah, I've not read this document before.

23 Q. Do you have any reason to question the --  
24 this document?

25 A. No.

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1 Q. It's a primary source; correct?

2 A. Yes.

3 Q. And it's dated May 11, 1993; correct?

4 A. Yes.

5 MR. MOHAMMEDI: Can we get

6 Exhibit 27?

7 (Winer Deposition Exhibit 917,

8 6-14-1996 Minutes of Islamic

9 Benevolence Committee dissolution and

10 merging with World Assembly of Muslim

11 Youth, was marked for

12 identification.)

13 Q. (BY MR. MOHAMMEDI) As of May 28, 1996,

14 LBI merged with WAMY; correct?

15 A. Yes. I am familiar with this.

16 Q. You are familiar with this one, right?

17 MR. HAEFELE: Omar, just so we're

18 keeping consistent with the markings here,

19 this is already Noor Wali Exhibit 267, I

20 think.

21 MR. MOHAMMEDI: Okay, yeah. That's

22 fine. Yes. Thank you, Robert.

23 A. I do not remember whether I saw this

24 document or not. I think I did, but I'm not

25 positive, but I'm certainly familiar with the action



1 and the date and the substance of it.

2 Q. (BY MR. MOHAMMEDI) And the exhibit -- so  
3 let's get Exhibit 28. If we could go to the  
4 select -- the highlighted sections, this is WAMY  
5 committee meeting minutes, discussing the  
6 dissolution of LBI. This is the highlight sections  
7 in the recommendation.

8 Can you make that bigger for us, please?

9 And this is -- this is dated May 28,  
10 1996.

11 Is it fair to say that this was more than  
12 three years since Adel Batterjee left LBI?

13 A. Based on the documents you've provided  
14 me, which I have no doubt -- reason to doubt are  
15 authentic and the date you've just represented to  
16 me, it's a matter of calendar, three years later.  
17 But I don't see a date on this document.

18 Based on your representation, that would  
19 be three years, yes.

20 Q. Have you reviewed the dissolution  
21 documents?

22 A. The dissolution documents of the LBI?

23 Q. Correct, I'm sorry, the LBI, right.  
24 Yeah. Sorry about that.

25 A. I don't remember what I reviewed in

1 relationship to its merger into WAMY.

2 Q. Okay.

3 A. I knew that that happened, and consistent  
4 with the timing that you have provided me.

5 Q. Are you aware of all asset of LBI, what  
6 happened to them after the dissolution?

7 A. No.

8 MR. MOHAMMEDI: Can we get

9 Exhibit 29?

10 (Winer Deposition Exhibit 918,  
11 8-18-1997 letter to Your Eminence the  
12 Secretary General of the World  
13 Assembly of Islamic Youth, was marked  
14 for identification.)

15 (Discussion off the record.)

16 MR. MOHAMMEDI: Can we go to the  
17 English translation?

18 Sorry, I'm just having a hard time  
19 seeing the whole document.

20 Q. (BY MR. MOHAMMEDI) The dates -- can you  
21 repeat the dates for us, Mr. Winer, of this  
22 document?

23 A. Sure. The English language dates are  
24 August 18, 1997, is the date at the top. And then  
25 it refers to some other documents in 1997 and 1996.

1 Q. And this letter is from the Kingdom of  
2 Saudi Arabia, Ministry of Islamic Affairs, Da'wah  
3 guidance to Eminence Secretary General of the World  
4 Assembly of Islamic Youth; correct?

5 A. I can't see who it's to.

6 Q. Okay. So do you know who is the  
7 secretary -- who was the secretary at that time of  
8 where that --

9 A. I can see -- I can see that it's from the  
10 Minister of Islamic Affairs, and it looked like it's  
11 to the secretary general of WAMY.

12 Q. Correct. Yes.

13 A. So now that it's smaller, I can see the  
14 two in the front, which I couldn't before.

15 Q. And it refers to dissolution and it does  
16 reference to sending the money to the Kingdom to be  
17 put there as in terms of escrow, and they return  
18 that money to WAMY when the merger and dissolution  
19 of LBI occurred; correct?

20 A. Yes, that's what it says.

21 MR. MOHAMMEDI: We can put this down  
22 and just continue.

23 Q. (BY MR. MOHAMMEDI) If you go to  
24 paragraph -- I guess Section 3 -- yeah,  
25 paragraph 3.30.3 of your rebuttal report, which is

1 page 52.

2 Do you have that? So you refer to the  
3 treasury designation regarding -- you refer to  
4 treasury designation regarding this Lajnat al-Birr;  
5 correct?

6 A. Yes.

7 Q. Is this a designation or this is the  
8 release? The press release?

9 A. This is the...

10 Q. You're referring to the press release;  
11 correct?

12 A. I don't recollect. It could be the  
13 release explaining it.

14 Q. But you're not referring to the  
15 designation itself; correct?

16 A. This is the information the treasury  
17 department put out at the time. It looks to me like  
18 it would probably be the release, but I'm not  
19 positive.

20 Q. Okay.

21 A. There's certainly treasury language.

22 Q. If you'd go to Section 7.7.3.1, 7.7 --  
23 7.3.1. Of your affirmative at page 46 -- 47, I'm  
24 sorry.

25 You state that: Benevolence

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1 International was founded in 1987 and alleged in a  
2 federal indictment to have supported al-Qaeda for  
3 more than a decade, as the successor to the Saudi  
4 charity LBI, which then merged into WAMY.

5 Correct?

6 A. That's what it says. That's right.

7 Q. Then you reference to Benevolence  
8 International, headquarters in Sarajevo. Were you  
9 aware that any documents found in that raid that  
10 was -- you cannot -- you cannot claim that there  
11 were LBI documents in that raid; correct?

12 MR. HAEFELE: Objection, form.

13 Q. (BY MR. MOHAMMEDI) Sorry, that was  
14 poorly phrased. Let me go back.

15 In your testimony, you mentioned in your  
16 report, you refer to raids by Benevolent  
17 International headquarters in Sarajevo; correct?

18 A. That's correct.

19 Q. Are you aware of any documents found in  
20 that raid that was LBI document?

21 A. The documents refer -- my -- my memory  
22 and understanding of this is that the documents  
23 refer to Batterjee and Benevolence, but I don't  
24 recollect whether it was to LBI, BIF, related to  
25 benevolence activities in Sarajevo. That's my

1     memory. That's what I wrote, and that's what I  
2     believe to be happening.

3             If you have other information to add to  
4     that, I'm certainly happy to look at it. The word  
5     as I mentioned al-Barr, A-L-B-A-R-R is benevolence.  
6     That's the name of both entities, as was referenced  
7     in the documents you showed me earlier about the  
8     possibility for confusion.

9             Q.     So is it fair to say that one is called  
10    Islamic Benevolent Committee, and the other is  
11    Benevolent International, based on the documents I  
12    showed you?

13            A.     Yeah, the word "benevolence" is in both.

14            Q.     Okay. What is your basis that BIF was  
15    founded in 1987?

16            A.     I believe the reference should be LBI.

17            Q.     Okay.

18            A.     I believe I corrected it, or if I didn't  
19    correct it, I certainly intended to.

20            Q.     Is an indictment evidence?

21            A.     An indictment lays out the U.S. -- lays  
22    out a case being brought by the indicting -- by the  
23    prosecutors. It's typically -- now, it's a --  
24    always in the case of the U.S. government case,  
25    based on some evidence. The amount of evidence is

1 going to vary depending on the case. In my  
2 experience, U.S. prosecutors do not bring cases  
3 without evidence.

4 Q. But it will have to be decided by the  
5 Courts; right?

6 A. It would be ultimately the -- what goes  
7 into the case and doesn't go into the case is  
8 decided by a judge. And I think -- if it's a jury  
9 trial, the weighing of the evidence is done by the  
10 jury. In some cases, a judicial ruling may limit --  
11 it's quite common -- the information that's going to  
12 be available to a jury.

13 Q. And that's the beauty of our system,  
14 separation of power; right?

15 Adjudicate cases before the judge to make  
16 a decision; correct?

17 A. There are separate roles for the judge,  
18 the jury, the prosecutor, or the investigators, the  
19 witnesses. They all have separate roles. All of  
20 them are relevant.

21 Q. Okay. In your footnote 66, bears  
22 page 47, you cite to -- you do cite to October 9,  
23 2002 press release of indictment of Arnaout;  
24 correct?

25 A. Yes.

1 Q. Let's go back to 77 point -- 7.7.3.1.

2 And we're going to discuss the proffer.

3 And I know you mentioned it before, but let's go  
4 through that.

5 In your reliance, do you have a proffer  
6 as a basis for analysis in forming your opinion?

7 A. It's one of the materials I considered,  
8 yes.

9 Q. Are you aware of how the federal report  
10 would on direct motion supported by Santiago  
11 proffer?

12 A. Yes, I am.

13 Q. Let me get Exhibit 34.

14 (Winer Deposition Exhibit 919, United  
15 States v. Enaam M. Arnaout Memorandum  
16 Opinion and Order, was marked for  
17 identification.)

18 Q. (BY MR. MOHAMMEDI) And you go to order  
19 page number 3. And that's the Court order.

20 And if you can get the citation up there,  
21 if you can go.

22 United States District Court, Northern  
23 District of Illinois.

24 Have you seen this document?

25 A. Yes.



1           Q.     If you go to page 3. And it's  
2 highlighted.

3                     You reviewed this document; correct?  
4 Before you rendered your opinion?

5           A.     Yes.

6           Q.     Why do you rely on rejected proffer?

7           A.     Because the basis for the rejection is  
8 based on the hearsay rules that were applicable for  
9 a criminal case as found by a particular judge,  
10 which prevented, as I understand the case,  
11 additional sufficient evidence from the judge's  
12 point of view to have co-conspirators. And so the  
13 exclusion --

14          Q.     And --

15          A.     Please allow me to finish.

16          Q.     Sorry, sorry. Go ahead. I thought you  
17 finished.

18          A.     I was not finished.

19          Q.     No, sorry. Go ahead.

20          A.     Thank you.

21                     So as I understand the case, the judge's  
22 ruling in relationship to the issue of hearsay  
23 prevented information coming in regarding the other  
24 co-conspirators, which thus caused an elimination  
25 for a substantial portion of the case.

1                   In the reporting on the case, the  
2   investigators, perhaps the prosecutors, I can't  
3   remember -- it was someone from the Department of  
4   Justice -- commented about how frustrated they were  
5   by the ruling and how much they wanted -- actually,  
6   that's not correct. I'm going to stop right there.  
7   Let me just correct that statement to say later on  
8   when the case was settled, there were some people  
9   who -- in the justice department who expressed a  
10   view they wanted it to go to trial anyway because  
11   they had a fair amount of additional information,  
12   evidence that they wanted to have in front of the  
13   Court.

14           Q.     So is your opinion that you will take --  
15   you take -- you will use a proffer as a better  
16   source for you to render your opinion than a  
17   judgment and a decision; correct?

18           A.     That's not what I just stated.

19           Q.     Okay. Do you use the judge's decision as  
20   a primary source for you to make a decision in your  
21   opinion?

22           A.     It is -- it is a primary source on what  
23   decision she made regarding that criminal case for  
24   the reasons she articulated as a legal matter in  
25   terms of legal doctrine having to do with hearsay,

1 the hearsay rules and the introduction of evidence  
2 in that case.

3 Q. Can you read the last -- I mean, it  
4 says -- when it says: Given the insufficiency of  
5 the Santiago proffer, the Court cannot find by a  
6 preponderance of the evidence -- right -- that the  
7 proffer -- that -- I can't see it. Unfortunately I  
8 have this.

9 You read the statement, right? So the  
10 Court finds insufficient evidence in Santiago  
11 proffer; correct?

12 A. Let me read the sentence and then I will  
13 provide you my assessment of it.

14 Given the insufficiency of the Santiago  
15 proffer, the Court cannot find by a preponderance of  
16 the evidence that the proffered statements -- that  
17 would be proffered statements -- that the proffered  
18 statements are admissible under the co-conspirator  
19 exception to the hearsay rule before trial.

20 So this is a reference to proffered  
21 statements by co-conspirators. It's not about the  
22 prosecutor's statement, it's about the proffered  
23 statements about what the co-conspirators said, is  
24 how I read that sentence.

25 Q. And the Santiago proffer --

1           A.       That is a reference to particular  
2 evidence that was put before the Court at that time  
3 in that court for that purpose in a criminal case,  
4 which is a different standard from a civil case.  
5 And that's what I read that sentence to say.

6           Q.       The sentence says by preponderance of  
7 evidence. Isn't that what it says?

8           A.       For the purpose of her ruling -- for  
9 admissibility under the co-conspirator exception to  
10 the hearsay rule before trial. I think it applies  
11 to that narrow legal issue. I can't say what the  
12 implications of it might be beyond the narrow ruling  
13 by which the judge made her ruling.

14          Q.       Okay. I guess we can go through some  
15 other exhibits for us to clarify that matter.

16                   I would say, if you can get Exhibit 35.

17                   (Winer Deposition Exhibit 920, UAA v  
18 Arnaout Defendant's Sentencing  
19 Memorandum, was marked for  
20 identification.)

21          Q.       (BY MR. MOHAMMEDI) You continued to rely  
22 on the proffer as a basis for your opinion that  
23 Batterjee activity at LBI were precursors to BIF,  
24 and that was -- that is Section 12.8, page 90;  
25 correct?

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1           A.     I don't see anything on the page you just  
2 referred me to, related to that issue.

3           Q.     That's rebuttal. I'm sorry.

4           A.     Which paragraph?

5           Q.     Rebuttal page --

6                     So it was rebuttal 2.38.10, I'm sorry  
7 page 32.

8                     But it was also referred to at 12.20.

9           A.     Yes, that refers to the period prior to  
10 the separation of Batterjee from LBI. It refers to  
11 the period in or about 1991.

12          Q.     Okay. Now, also, based on your rebuttal  
13 3.26-3.31, you cite various findings from the  
14 prosecutor; correct? In the Arnaout case.

15          A.     I'm sorry, I'm completely lost as to what  
16 you're directing me to at the moment, sir.

17          Q.     I'm sorry. I'm directing you to rebuttal  
18 3.26-3.31.

19                     MR. HAEFELE: Give us the page  
20 number, Omar.

21                     MR. MOHAMMEDI: Page No. 53 dash --  
22 51-53.

23                     MR. HAEFELE: Thank you.

24          A.     This is the treasury tax that we're  
25 talking about.

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1 Q. (BY MR. MOHAMMEDI) Let me see. 50 --  
2 that's right.

3 A. Which paragraph?

4 Q. You are referring to U.S. versus Arnaout.  
5 When you're making statement, you're referring to  
6 the proffer; correct? The prosecution documents.

7 A. I'm still lost as to what you're  
8 referring to. What page?

9 Q. Let me direct you. U.S. versus Arnaout.  
10 This is the page 32.

11 If you go to page 32, and it is 2.38.10.

12 And when you making the statement, your  
13 referring to the government evidentiary proffer  
14 supporting the admissibility of co-conspirator  
15 statement; correct? And that's per footnote No.  
16 45?

17 A. I'm sorry, I'm still lost, sir, as to  
18 what you're --

19 Q. If you go to your rebuttal page 32.

20 A. Yes.

21 Q. And go to 2.38.10. And then when you're  
22 referring to --

23 A. Yes. Yes. Footnote 45 refers to the  
24 government evidentiary proffer. That is correct.

25 Q. You were referring to that.

1           Have you considered any other documents  
2     in the filing in that case?

3           A.     I've considered whatever documents are in  
4     my reliance materials. At this moment, I don't  
5     remember what I considered and did not over the  
6     course of all of this work. I can't tell you every  
7     document is there. I can say that I also considered  
8     the statements about Batterjee made by the U.S.  
9     government before, during, and after this matter,  
10    and about what he did. And what Arnaout did. And  
11    that's in my rebuttal statement laid out in a fairly  
12    systematic fashion.

13          Q.     Okay. If you go to Exhibit 35. And now  
14    it's sentencing memo. We have it in front of us --  
15    I meant, sorry, exhibit -- what is the exhibit we're  
16    at right now? 920.

17                If you scroll down to page 4, this is --  
18    this is a memo filed by Arnaout's lawyer in the  
19    case. Arnaout's lawyer in the case. And if you go  
20    to page 4, it says that Mr. Arnaout's organization,  
21    BIF-USA, no affiliation to LBI.

22                Do you see that?

23          A.     Yes.

24          Q.     Let's go to the next exhibit we have for  
25    you, Exhibit 36.

1 (Winer Deposition Exhibit 921, USA v.  
2 Arnaout Plea Agreement, was marked  
3 for identification.)

4 Q. (BY MR. MOHAMMEDI) If you go to page 2  
5 to 4 in that, it's a plea agreement.

6 The question, do you know that burden of  
7 proof for sentencing enhancement under United States  
8 sentencing guidelines is preponderance of evidence?  
9 It's not beyond reasonable doubt?

10 A. I haven't thought about the issue of what  
11 the standard is for enhancements.

12 Q. So government claim BIF are now subject  
13 to terrorism enhancement under the guidelines.

14 Even with all the evidence at the  
15 government's disposal with respect to BIF and  
16 Arnaout, what the Court found government could not  
17 meet the burden.

18 A. I'm sorry, where are you reading from,  
19 sir?

20 Q. This is not --

21 Can you hold on a second, please?

22 Yeah. Yes, can we put the Exhibit 37 --  
23 sorry about that.

24 (Winer Deposition Exhibit 922, U.S.  
25 v. Arnaout 282 F.Supp.2d 838 (2003),



1 was marked for identification.)

2 Q. (BY MR. MOHAMMEDI) Sir, the government  
3 claim BIF are now subject to terrorism enhancement  
4 under the guidelines. But the Court, if you go  
5 to -- let's see, what page do we have. This  
6 highlight I'm trying to find out. 838.

7 If you go down when you see the  
8 highlighted section.

9 So the application here, it says, if you  
10 see that: Arnaout does not stand convicted of a  
11 terrorism offense, and goes on. Do you want to read  
12 that for us, Mr. Winer?

13 A. I read it.

14 Q. You read it? Do you agree with that?

15 MR. HAEFELE: Objection to form.

16 A. The terrorist charges were dropped as  
17 part of the plea agreement. That's accurate.

18 Q. (BY MR. MOHAMMEDI) And is it because the  
19 government could not meet its burden; correct?

20 MR. HAEFELE: Objection to the form.

21 A. My understanding of the case as laid out  
22 in my report and my rebuttal report, is that the  
23 judge's decision on the admissibility of statements  
24 by co-conspirators impaired the government's case,  
25 and thus the government was not going to be able to

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1 put into the record what it wanted to be able to put  
2 into the record, and therefore it agreed to the plea  
3 agreement, as did the defendant.

4 Q. (BY MR. MOHAMMEDI) Can you go to page 6  
5 of the document?

6 Can you read this to us?

7 A. Yes, I'm aware of this. I've read this  
8 at some point.

9 Q. And do you agree with that statement?

10 A. I agree with the statement based on --

11 MR. HAEFELE: Objection to form --

12 A. -- the information --

13 I agree with the statement based on the  
14 consequences of the decision that was made to  
15 eliminate the particular evidence that the  
16 government was going to be relying on.

17 Q. (BY MR. MOHAMMEDI) Do you believe in the  
18 judge's decisions?

19 A. The judge's decisions are a legal fact.

20 Q. They are legal facts, right? And they  
21 are better than proffer, aren't they? They are  
22 something you should be relying on rather than the  
23 proffer; correct?

24 A. Yes, but you have to distinguish between  
25 a criminal case and a civil case, which are not the

1 same thing. And not every judicial ruling is a  
2 ruling that's going to be correct. Judges, in fact,  
3 get overruled from time to time. That's part of the  
4 process. In this particular case, no one appealed.  
5 Neither the defendant nor the government appealed.  
6 The government complained afterwards and reaffirmed  
7 its belief that the defendants had committed more  
8 serious offenses, but that's neither here nor there.  
9 The decision is a fact, and it's legally accurate.  
10 This was the decision that was reached.

11 Q. And you said there were no more --

12 If you can just put Exhibit 38, which is  
13 a Seventh Circuit decision, which is the document  
14 affirming the district court ruling.

15 (Winer Deposition Exhibit 923, U.S.  
16 v. Arnaout 431 F.3d 994 (2005), was  
17 marked for identification.)

18 A. So was there appeal here?

19 Q. (BY MR. MOHAMMEDI) Look at the -- look  
20 at the exhibit where it says --

21 A. The United States did in fact appeal. I  
22 had forgotten. Thank you for correcting me.

23 Q. Thank you.

24 So you were not aware of this, correct?

25 A. I had forgotten --

1 Q. Of this decision, the Seventh Circuit  
2 decision?

3 A. I was aware of it. I had forgotten. It  
4 says that: The District Court did not commit clear  
5 error in refusing to apply the --

6 Q. Let's go to Section 3A1.4.

7 And there are highlights, if you go down.

8 Can you go down, just for us to see?

9 TRIAL TECHNICIAN: What page is it  
10 on?

11 MR. MOHAMMEDI: Let me see. It's  
12 highlighted. So you will find it.

13 Page 8.

14 Q. (BY MR. MOHAMMEDI) And the Court found  
15 that: The district court did not [sic] find that  
16 the record did not establish by a preponderance of  
17 the evidence that Arnaout attempted, participated  
18 in, or conspired to commit any act of terrorism.  
19 The district court also found that the government  
20 had not established that the Bosnian and Chechen  
21 recipients of BIF aid were engaged in a federal  
22 crime of terrorism, or that Arnaout intended the  
23 donated boots, uniforms, blankets, tents, x-ray  
24 machine, ambulances, nylon or walkie-talkies to be  
25 used to promote a federal crime of terrorism.

1           We find all of the district court's  
2 findings on this issue consistent with the record  
3 not clearly erroneous -- not clearly erroneous, and  
4 sufficient to support the District Court's refusal  
5 to apply Section 3A 1.4.

6           Do you view that statement?

7           A.     Yes, but I would like to see the previous  
8 sentence, if I may, since this is only part of the  
9 paragraph that's in yellow. Thank you. Let me read  
10 the entire paragraph.

11           You left out a critical sentence: We now  
12 know that the district court should have considered  
13 whether Arnaout's offense or relevant conduct  
14 promoted a federal crime of terrorism.

15           This error notwithstanding, the district  
16 did not find that the record -- did find -- pardon  
17 me, the district court did find the record did not  
18 establish by a preponderance of the evidence, that  
19 he attempted, participated, and conspired to commit  
20 any act of terrorism. And then it goes on, and  
21 that's why they refused to -- that's why she refused  
22 to apply the enhancement. And the appeals court  
23 applied the standard of not overruling because it's  
24 not clearly erroneous. That's the full paragraph.

25           Q.     And this is because of the fact they did

1 not support such a terrorism finance or terrorism  
2 support; correct?

3 MR. HAEFELE: Objection to form.

4 A. I don't know what the full record was,  
5 that the appeals -- that went before the appeals  
6 court in this case, so I have no further comments to  
7 offer other than that this finding, the appellate  
8 court finding is a fact, as is the district court  
9 finding.

10 Q. (BY MR. MOHAMMEDI) And it is fair to say  
11 you did not consider this one when you rendered your  
12 opinion; correct?

13 You did not consider the seventh circuit  
14 and the district court when you're rendering your  
15 opinion --

16 A. I did consider the district court ruling.

17 Q. You considered the sentencing, not --

18 A. I don't -- I don't recollect whether I  
19 did or didn't. I just don't remember.

20 I certainly did not consider the  
21 appellate one, because I had very little memory  
22 of this, a trace, that there was one, which is why I  
23 was inaccurate in my first statement about it.

24 I didn't consider the appellate one. I  
25 did consider the district court decision, and I

1 don't recollect on the enhancement.

2 Q. Okay.

3 Now, if we go back to the terrorism  
4 finance staff monograph, I think we entered that as  
5 Exhibit 12, I believe. Sorry, exhibit -- what's  
6 that exhibit you enter, the monograph? 909.

7 And if you go to page 11, which is PDF  
8 page 114. I'm sorry, page 111, PDF page 114.

9 And it says: Despite these troubling  
10 links, the investigation of BIF revealed little  
11 compelling evidence that BIF actually provided  
12 financial support of al-Qaeda, at least after  
13 al-Qaeda was designated a foreign terrorist  
14 organization in 1999. Indeed, despite unprecedented  
15 access to the U.S. and foreign records of these  
16 organizations, one of the most experienced and best  
17 terrorist prosecutors has not been able to resolve  
18 the investigation of BIF without conviction for  
19 support of terrorism, although the OFAC action --  
20 not -- shut down BIF, that victory came at the  
21 considerable cost of negative public opinion in the  
22 Muslim and Arab communities, who contend that the  
23 government's destruction of these charities reflects  
24 bias and injustice with no measurable gain to  
25 national security.

1 MR. HAEFELE: Objection to form.

2 Is there a question?

3 Q. (BY MR. MOHAMMEDI) Do you -- have you  
4 considered this?

5 MR. HAEFELE: Objection to form.

6 A. Yes, I read the terrorist financing staff  
7 monograph. And these cases, complex financial crime  
8 cases from all counts.

9 Q. (BY MR. MOHAMMEDI) Did you --

10 A. Please allow me to respond.

11 Complex financial crime cases, I've seen  
12 repeatedly, run into problems even when it was clear  
13 to me, in connection with such cases, that there was  
14 serious criminal activity. I've seen this  
15 repeatedly. They are hard cases to make, because  
16 the actions that relate to complex international  
17 crime cases, which include terrorist finance cases,  
18 can take place over a long time. They can involve  
19 people who aren't available for testimony in the  
20 United States. The source is going to be a  
21 mixture -- can involve intelligence sources which  
22 can't be readily converted into physical evidence.  
23 So they are hard case to make.

24 In this case, there is a reference here  
25 to at least after al-Qaeda was designated a foreign



1 terrorist organization in 1999. One of the issues  
2 in the BIF case, as I understand it, was in the time  
3 period that the -- that was relating to the proofs.  
4 Some of the activity that the government alleged was  
5 from older activity.

6 So all of those, that has to be taken  
7 into consideration, as one thinks about this  
8 paragraph.

9 Finally, from the question of negative  
10 public opinion, in any community, contend that  
11 destruction of the charity reflects bias and  
12 injustice, with no measurable gain to national  
13 security. I don't, as an expert, view the public  
14 opinion in a particular community, whether it's  
15 Muslim, Christian, or Jewish, Arab or Hispanic or  
16 Latin, or any other group, to be a determining  
17 factor of whether one should bring a case if a  
18 prosecutor believes that they have a criminal case  
19 to make.

20 And so I note here that the terrorist  
21 financing staff monograph doesn't say that it  
22 should, it simply said that these communities  
23 contended this.

24 And so that's how I thought about this  
25 paragraph when I read it, and that's how I think

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1 about it now.

2 Q. (BY MR. MOHAMMEDI) So your opinion, all  
3 the exhibit they enter here into evidence for you to  
4 look at, you don't think there were, you know, you  
5 have a better understanding of all of these findings  
6 than those exhibits that we entered into evidence  
7 today that you did not consider them also in your  
8 report; correct?

9 MR. HAEFELE: Objection to form.

10 A. That's a misstatement of my testimony.

11 Q. (BY MR. MOHAMMEDI) Okay. That is -- I'm  
12 not saying this is your statement, and actually I'm  
13 asking the question, and that's fine.

14 A. What is your question, please?

15 Q. The question, you are -- all the exhibits  
16 that we entered now into evidence for you to  
17 evaluate, right? Which you missed most of the time  
18 in your reports, those evidence are not enough for  
19 you to conclude -- right? -- what you have not  
20 concluded before in your report by not considering  
21 this information -- those information; correct?

22 MR. HAEFELE: Objection to form.

23 Q. (BY MR. MOHAMMEDI) You still stood by  
24 your opinion, what you wrote in your report;  
25 correct?

1           A.       I stand by what I wrote on BIF and LBI in  
2 my rebuttal report, which corrected some things in  
3 the first report due to the complication of dealing  
4 with the board benevolence, which is used in the  
5 name of both of them.

6                   I do not agree with the statements you  
7 made that I ignored a bunch of stuff. Your  
8 particular formulation that makes a number of  
9 assumptions about the basis for my opinion that I  
10 don't agree with.

11                   MR. MOHAMMEDI: Maybe is good time to  
12 take a break.

13                   THE VIDEOGRAPHER: We are going off  
14 the record. The time is 5:24 p.m.

15                   (Recess taken, 5:24 p.m. to  
16 5:45 p.m. EDT)

17                   THE VIDEOGRAPHER: We are back on the  
18 record at 5:45 p.m.

19           Q.       (BY MR. MOHAMMEDI) Mr. Winer, in  
20 Section 7.4.7 in your affirmative report at page 44,  
21 you cite to Alms for Jihad; correct?

22           A.       Yes.

23           Q.       Do you know that that publication was  
24 withdrawn?

25           A.       I do. It was a SLAPP suit.

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1 Q. And what did you cite for it if it was  
2 withdrawn?

3 A. It was withdrawn because bin Mahfouz,  
4 Khalid bin Mahfouz of National Commercial Bank  
5 called one of the wealthiest people in Saudi Arabia,  
6 threatened him with a defamation action. And the  
7 former -- the historian and the former US-AID  
8 person, as I understand it, and their publisher  
9 working with the financial resources to fight a  
10 billionaire in a Forum shop in London.

11 Q. Okay. Can we get exhibit --

12 MR. HAEFELE: I'm sorry, a SLAPP  
13 suit, S-L-A-P-P, a strategic litigation  
14 against a public interest.

15 A. Yes, or a public participation.

16 Q. (BY MR. MOHAMMEDI) And that's how I  
17 understood it. I read the book. I found the book  
18 useful.

19 MR. MOHAMMEDI: Can we get exhibit 39  
20 that we have sent?

21 (Winer Deposition Exhibit 924, The  
22 Bookseller, Why CUP acted  
23 responsibly, was marked for  
24 identification.)

25 Q. (BY MR. MOHAMMEDI) So Kevin Taylor,

1 intellectual property director Cambridge University  
2 Press, explained where the book was withdrawn in  
3 this, which is The Bookseller; correct? And  
4 explains exactly why the book was withdrawn.

5 And you do not agree with that statement?  
6 With those statements?

7 MR. HAEFELE: Objection.

8 Omar, can you tell us what we're  
9 looking for?

10 MR. MOHAMMEDI: Let me read this into  
11 the record: Our book cited sources whose  
12 falsity had been established to the  
13 satisfaction of the English courts.

14 And then he also noted: Some  
15 American public opinion holds that Sheikh bin  
16 Mahfouz is guilty of funding terrorism, but  
17 Cambridge University Press cannot act on the  
18 basis of popular opinion, however widely held.  
19 Evidence must be found. And the evidence  
20 produced by the authors of Alms for Jihad  
21 repeated from earlier sources has not stood up  
22 to the requisite tests.

23 MR. HAEFELE: Objection to form.

24 Q. (BY MR. MOHAMMEDI) Are you aware of  
25 that?

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1 MR. HAEFELE: Objection to form.

2 Q. (BY MR. MOHAMMEDI) Are you aware of the  
3 Cambridge University Press making that statement,  
4 Kevin Taylor who was the intellectual property  
5 director of Cambridge?

6 A. I had not seen this, no.

7 Q. Okay.

8 A. But I know a fair amount about bin  
9 Mahfouz. I investigated bin Mahfouz in connection  
10 with BCCI, and my -- he's no longer alive. And I  
11 still believe this was a SLAPP suit. And because  
12 bin Mahfouz had previously been very aggressive,  
13 he'd been successful in the earlier case, and  
14 therefore they decided they weren't going to fight  
15 it.

16 Q. But my question was that you did not see  
17 this document; correct?

18 A. No.

19 Q. Okay. That's the only question that I  
20 have for that.

21 Let's go to -- let's enter into  
22 exhibit -- Exhibit 40 that we sent to you, which is  
23 CRA report. I think this was entered, Robert,  
24 before, right? As a --

25 MR. HAEFELE: The '96 CIA Report? I

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1 suspect it has. I don't know.

2 MR. MOHAMMEDI: The CRA report.

3 MR. HAEFELE: Pardon me?

4 MR. MOHAMMEDI: The Canadian Revenue  
5 Agency report.

6 MR. HAEFELE: Oh, CRA report. I'm  
7 sorry.

8 MR. MOHAMMEDI: Right.

9 MR. HAEFELE: I suspect it has been.  
10 I don't recall.

11 MR. MOHAMMEDI: Why don't you put it  
12 in now, since we're not.

13 MR. HAEFELE: That's fine. Let's put  
14 it in as a new one. 925.

15 (Winer Deposition Exhibit 925, Letter  
16 to Ayman Al-Taher, Subj: Notice of  
17 Intention to Revoke the World  
18 Assembly of Muslim Youth,  
19 FED-PEC0218170-218203, was marked for  
20 identification.)

21 Q. (BY MR. MOHAMMEDI) I assume, Mr. Winer,  
22 that you've seen this one, since you refer to it  
23 many times in your report?

24 A. Your assumption is correct.

25 Q. You'd agree with me this is not an

1 intelligence report; right?

2 A. It is not an intelligence report; that is  
3 correct.

4 Q. It is not a law enforcement report;  
5 correct?

6 A. It's a report of the Canada Revenue  
7 Agency, notice of intention to revoke the WAMY  
8 registration in connection with the Income Tax Act.

9 Q. What type of registration that WAMY  
10 Canada was -- CRA was trying to invoke WAMY Canada?

11 A. I believe it was its registration for  
12 charter.

13 Q. It's fair to say its not-for-profit  
14 status; correct?

15 A. Yes.

16 Q. So not revoking registration of WAMY  
17 Canada altogether, just not-for-profit status;  
18 correct?

19 A. I'd have to look at it again to address  
20 that issue.

21 Q. Okay. I guarantee that's what happened.

22 A. I accept your representation on that.

23 Q. What do you understand the consequences  
24 of revoking WAMY Canada's status of charity for  
25 Canadian tax purposes?



1           A.       Contributions to it wouldn't be counted  
2 as deductible.

3           Q.       I'm sorry, I didn't hear that.

4                   Can you repeat that? I'm sorry, I  
5 couldn't hear it.

6           A.       I would think contributions to it would  
7 not be tax deductible. I don't know what the impact  
8 would be on its operation -- operating ability. I'd  
9 have to look at that issue. I haven't considered  
10 that issue. Whether it could have --

11          Q.       Whether --

12          A.       Or not it could have any remaining  
13 capacity to operate in Canada after that.

14          Q.       Are you aware if the Canadian government  
15 froze the assets of WAMY Canada?

16          A.       I have no reason to believe that it did.

17          Q.       And you agree that the subject of all of  
18 the review by CRA was WAMY Canada branch, not WAMY  
19 Saudi Arabia; correct?

20          A.       That's correct.

21          Q.       It is fair to say that what -- CRA did  
22 not investigate WAMY Saudi Arabia; correct?

23          A.       It investigated the matters that were  
24 within its jurisdiction, which would go to the  
25 activities of the entities based in Canada and the

1 transactions that it was involved in. It certainly  
2 would not have gone to conduct an investigation in a  
3 foreign country. That would tend to be outside the  
4 ability of most revenue services, and I presume of  
5 Canada's.

6 Q. Right. And it did differentiate between  
7 WAMY and WAMY Canada, and I think what it says is,  
8 mostly in the exhibit that we have here, it says  
9 page 5 of 22, which is page 8 PDF, specifically  
10 states WAMY and WAMY Saudi Arabia; correct?

11 A. It does make references to WAMY  
12 Saudi Arabia here.

13 Q. And do you believe WAMY means WAMY  
14 Canada?

15 A. Yes.

16 Q. Okay. Can we get Exhibit 41? It is a  
17 declaration by Khatib.

18 (Winer Deposition Exhibit 926,  
19 Declaration of Mohammed Al Khatib,  
20 was marked for identification.)

21 Q. (BY MR. MOHAMMEDI) Have you seen this --  
22 have you seen this declaration before?

23 A. Yes, I have seen it.

24 Q. And you considered in your report by --  
25 you went through it and you considered it in your

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1 report?

2 A. I don't remember at this point when I've  
3 seen it before and whether it's referenced in  
4 my reliance materials or not.

5 Q. Okay. We don't believe that it was  
6 referenced in your report.

7 A. You know, what, I don't remember. I  
8 think I have seen it, but I don't remember relying  
9 on it. And that's consistent with the statement  
10 you've just made.

11 Q. And when you say you rely -- so it's not  
12 in your material -- in the materials considered;  
13 correct? That you submitted?

14 A. I don't recollect.

15 MR. MOHAMMEDI: Can we get Ibrahim  
16 Abdullah declaration of 2018, which is  
17 Exhibit 42 we sent to you?

18 And if you can just remind me the  
19 exhibit number we are at.

20 If you can -- I think if you can go  
21 down a little bit.

22 (Winer Deposition Exhibit  
23 Exhibit 927, Declaration of Ibrahim  
24 Sulayman Abdullah, was marked for  
25 identification.)

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1 Q. (BY MR. MOHAMMEDI) This declaration was  
2 filed along with the other declaration in court.

3 Have you seen this one, this declaration  
4 for --

5 A. I'd like to be able to read it and then I  
6 can tell you whether I've read it before or not.

7 Q. If you can look at the declaration of  
8 Ibrahim Sulayman Abdullah. Do you recall the name?

9 A. I don't recollect the name.

10 Q. Okay. If you want to read it we can go  
11 off the record, it's up to you.

12 A. Why don't you ask me a question instead.

13 Q. Okay.

14 MR. MOHAMMEDI: Can we put this down?  
15 And get Exhibit 43. It is another -- another  
16 document that were filed in court and actually  
17 produced in this case.

18 No, this is the wrong one. That is  
19 not the right document. If you can just put  
20 that down.

21 (Winer Deposition Exhibit 928,  
22 4-20-201 fax with attachment letter  
23 to Dr. Saleh Bin Ibrahim Babaer, was  
24 marked for identification.)

25 Q. (BY MR. MOHAMMEDI) Can you look at the

1 translation of this document.

2 I can't -- you know, I can't see the top  
3 where it says when it was filed. Unfortunately I'm  
4 not able to see it. It's preventing -- I think it's  
5 April 2 -- 2018, correct, that's when it was filed  
6 in court and it was produced. Thank you.

7 Have you seen this document, Mr. Winer?

8 A. No.

9 Q. So you have not considered this when you  
10 rendered your opinion in WAMY Canada; is that  
11 correct?

12 A. That's correct.

13 Q. Let's go to Exhibit 44. Which is a  
14 transcript from Abdullah -- Ibrahim Abdullah  
15 deposition.

16 MR. HAEFELE: Omar, on that last  
17 document, 928, do you have a certification for  
18 that one?

19 I don't see it -- a translation  
20 certification attached to that.

21 MR. MOHAMMEDI: I don't know if you  
22 have it here, but we have a certification, but  
23 this was filed in court.

24 MR. HAEFELE: I realize that, but I  
25 don't see a certified translation here.

1 MR. MOHAMMEDI: Can you go down to  
2 the document? Can you go farther?

3 All right. So we have the  
4 certification for this document.

5 MR. HAEFELE: All right. We do.

6 MR. MOHAMMEDI: We do have.

7 MR. HAEFELE: If you could provide  
8 that later on.

9 MR. MOHAMMEDI: We do.

10 (Winer Deposition Exhibit 929,  
11 10-21-2019 excerpts from the  
12 transcript of Ibrahim Abdullah,  
13 Ph.D., was marked for  
14 identification.)

15 MR. MOHAMMEDI: I just want for the  
16 record, I don't think you have to produce  
17 any -- you have not produced the translated  
18 documents in your case that have  
19 certification, correct, Robert?

20 MR. HAEFELE: Pardon me?

21 MR. MOHAMMEDI: Did you -- okay.  
22 We'll deal with that later. We'll deal with  
23 that later.

24 So this is the transcript from  
25 page 158-168, we go --

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1 Q. (BY MR. MOHAMMEDI) First, have you seen  
2 this document before?

3 A. No.

4 Q. Okay. Then there is no reason for us to  
5 go through it. Okay. No problem.

6 A. Actually, hold on. Let me just check. I  
7 want to look for a moment. What I would like to do  
8 is to take one moment off the record, if we could.

9 MR. MOHAMMEDI: Okay. Sure.

10 THE WITNESS: Thank you.

11 THE VIDEOGRAPHER: We're going to go  
12 off the record at 6:00 p.m.

13 (Recess taken, 6:00 p.m. to  
14 6:00 p.m. EDT)

15 THE VIDEOGRAPHER: We are back on the  
16 record at 6:01 p.m.

17 Q. (BY MR. MOHAMMEDI) I think the last time  
18 before we went off the record I asked if you had  
19 seen this document and you said you wanted to see  
20 before -- you said you had not, but then you wanted  
21 to review first.

22 A. I would still like to read the first  
23 couple of pages of the document, just to be certain.

24 Q. You want to -- you want to review it?

25 A. The first couple of pages, to be certain.

1 MR. MOHAMMEDI: Okay. So we need to  
2 go off the record. That's what I thought we  
3 were doing.

4 THE VIDEOGRAPHER: We are going to go  
5 off the record. 6:01 p.m.

6 (Recess taken, 6:01 p.m. to  
7 6:02 p.m. EDT)

8 THE VIDEOGRAPHER: We're back on the  
9 record. The time is 6:02 p.m.

10 A. The document that was just provided me  
11 contains only a couple of pages out of an extensive  
12 deposition. I don't believe I reviewed that  
13 deposition, but the amounts that are excerpted  
14 don't -- are not sufficient to enable me to  
15 interpret -- would not be sufficient for me to be  
16 able to interpret the full deposition or its  
17 implications.

18 Q. (BY MR. MOHAMMEDI) The question, have  
19 you reviewed the deposition transcript of Ibrahim  
20 Abdullah?

21 A. I don't believe so.

22 Q. Let's go to Exhibit 45 of this -- which  
23 is the CRA investigation in the file.

24 (Winer Deposition Exhibit 930, World  
25 Assembly of Muslim Youth T20



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1 Auditor's Report, was marked for  
2 identification.)

3 Q. (BY MR. MOHAMMEDI) I think there is a  
4 second page to it.

5 Okay. So that's the investigation file.  
6 At page 485 of the PDF. That's bank  
7 statement.

8 Mr. Winer, is there anything on the face  
9 of this bank statement showing that when  
10 Saudi Arabia is the source of this March 20th wire  
11 transfer?

12 I think it's the second page.

13 No, the first page. I'm sorry. Go back.

14 MR. HAEFELE: Objection to form.

15 A. The document that you are showing me,  
16 which is PEC-WAMY031322, World Assembly of Muslim  
17 Youth business banking statement for April 5, 2001,  
18 March 20th, there's a \$50,000 wire transfer. It  
19 says U.S. S wire payment, U.S. dollar.

20 Is that the transaction you're asking me  
21 to look at?

22 Q. (BY MR. MOHAMMEDI) Correct, that's the  
23 transaction.

24 A. Yeah, it doesn't say anything other than  
25 it's U.S. dollar PO. And I don't know what 2987 is.

1 Q. Do you have an idea where the money came  
2 from?

3 A. Not from this record.

4 Q. In your Section 10.3-10.4. Page 68-71.  
5 We can take this down.

6 MR. HAEFELE: What page?

7 MR. MOHAMMEDI: Page 68.

8 MR. HAEFELE: Of the initial report?

9 MR. MOHAMMEDI: Of the initial  
10 report, yes. The affirmative report.

11 Q. (BY MR. MOHAMMEDI) In that page 68, you  
12 say, Section 10.3, you say that CRA assessed that  
13 WAMY Canada, Saudi parent, provided support to  
14 al-Qaeda.

15 Do you see that?

16 A. I'm not clear as to which paragraph  
17 you're pointing to, I'm sorry.

18 Q. And in Section 10.3, page 68.

19 A. It says that the WAMY branch was stripped  
20 of its charitable status by Canada after a Canada  
21 revenue agency investigation found that the charity  
22 had failed to comply with basic bookkeeping and  
23 accounting requirements for the charity and was  
24 inextricably linked to its Saudi parents, which  
25 Canada assessed to have provided support to

1 al-Qaeda.

2 Q. Where is it in the CRA report that this  
3 finding was made?

4 A. I would have to go back to the CRA report  
5 to tell you.

6 I can't tell you out of my memory where  
7 it said that. I believe that summarizes what they  
8 found.

9 Q. So if you go to page --

10 A. In paragraph 10.3.4, I quote what CRA  
11 found.

12 Q. Okay. So if you go to -- let me just  
13 look at it.

14 Page 1 of the CRA report at exhibit --  
15 page 1. The CRA report. That's where we entered.  
16 I can't remember the exhibit number now.

17 TRIAL TECHNICIAN: Was it the last  
18 exhibit entered?

19 MR. MOHAMMEDI: 925.

20 Q. (BY MR. MOHAMMEDI) So in page 1 of the  
21 report, WAMY Canada parent organization located in  
22 Saudi has been alleged to support terrorist.

23 Does it say that? It says that, correct?

24 A. Yes.

25 Q. Okay. So your statement -- do you -- is

1 it fair to say your statement on CRA report on WAMY  
2 is not correct?

3 A. I would have to take a look at the rest  
4 of the report. There is a difference between the  
5 word assessed and which has been alleged, and I  
6 think we have to look at the whole report in order  
7 to fully address that issue, and not just this  
8 paragraph.

9 Q. Okay. Do you agree -- do you know that  
10 in Exhibit 45, if you go to exhibit that were just  
11 entered now. Right.

12 At page 4, can you read that, which is  
13 highlighted? That's what off of the -- that's the  
14 information, the content of the CRA report.

15 Can you read that?

16 It says United States District Court For  
17 the District of Columbia lawsuit filed by victims  
18 families of 9/11.

19 Do you see that?

20 A. Yes.

21 Q. Are you aware the CRA considered an  
22 allegation made by the lawyers who hired you?

23 MR. HAEFELE: Objection to form.

24 A. They considered everything that they  
25 listed, which was --

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1 Q. (BY MR. MOHAMMEDI) The lawyers that  
2 hired you, those allegations, correct? They're  
3 still allegations.

4 MR. HAEFELE: Objection to form.

5 A. That's correct.

6 Q. (BY MR. MOHAMMEDI) In 10.3.1, page 68,  
7 again, you say that CRA audit found massive  
8 deficiencies. Do you see that?

9 A. Yes.

10 Q. Are you an auditor?

11 A. No, I am not an auditor, I'm an attorney.

12 Q. Are you a CPA?

13 MR. HAEFELE: Objection, asked and  
14 answered.

15 A. You asked me this question earlier. I  
16 previously have responded to that question to tell  
17 you that I am not a certified public accountant.

18 Q. (BY MR. MOHAMMEDI) So what qualification  
19 do you have to render this opinion?

20 MR. HAEFELE: Objection.

21 A. I have laid out my qualifications  
22 previously in this deposition. I'm going to respond  
23 to your current question at some length since the  
24 question is a very broad question.

25 I first began dealing with bank

1 statements and the way in which financial crimes  
2 take place internationally in 1980 in a very early  
3 anti-money laundering case. In the mid '80s, I was  
4 on the staff of a series of Senate investigations  
5 chaired by my -- man that I was employed by, Senator  
6 John Kerry, in which I acted as his counsel.

7 And in the course of that, undertook  
8 investigations that required me to look at and  
9 understand financial reports and auditing and  
10 accounting statements which included a review in the  
11 Bank of Credit and Commerce International of  
12 accounting and auditing standards that were in  
13 effect at the time. How to read what's in the  
14 accounting review or an audit. Because not every  
15 accounting review is, of course, an audit.

16 Q. (BY MR. MOHAMMEDI) Okay.

17 A. I continued to work in this space as an  
18 attorney. As previously mentioned, I represented  
19 several persons or entities who were engaged in  
20 activity that raised issues relating to terrorist  
21 finance and accounting or audit, and in the course  
22 of that work continued to become familiar with by  
23 such standards.

24 Q. So --

25 A. In this case --

1 Q. Let me ask you --

2 A. You asked me a question --

3 Q. I need to ask you -- you --

4 A. I am not --

5 MR. HAEFELE: Let him answer the  
6 question.

7 MR. MOHAMMEDI: What you have done  
8 before -- we have heard that already.

9 A. I am not -- you have asked me a question.  
10 I would like to --

11 Q. (BY MR. MOHAMMEDI) I am asking you a  
12 specific question.

13 A. Yes, you did. You asked me what my  
14 expertise was.

15 Q. No, I'm asking you what the basis of you  
16 making many statement massive, what is your -- what  
17 is your basis for --

18 MR. HAEFELE: Mr. Mohammedi, I'm  
19 going to object that you're not letting the  
20 witness answer the question yet again. This  
21 is -- he's exactly answering exactly the  
22 question you asked him. Don't interrupt.

23 Q. (BY MR. MOHAMMEDI) So the question is,  
24 what is the standard of massive?

25 MR. HAEFELE: Mr. Winer, if you need

1 to finish answering your previous question,  
2 finish answering the question before you  
3 proceed on to Mr. Mohammedi's new question.

4 Mr. Mohammedi, please do not  
5 interject and interrupt the witness.

6 MR. MOHAMMEDI: We'll move on. It's  
7 fine. I don't need to hear it. I really  
8 don't need to hear it. I asked a question and  
9 you didn't answer. It's nonresponsive so I'm  
10 going to move on.

11 MR. HAEFELE: Let the record reflect  
12 that his extensive experience surpasses what  
13 you've allowed him to answer.

14 MR. MOHAMMEDI: We've heard that over  
15 and over again. I'm asking specific questions  
16 related to CRA report.

17 A. The answer to that not --

18 Q. (BY MR. MOHAMMEDI) There is no question  
19 pending, Mr. Winer. We are moving on.

20 A. Excuse me, there was a question pending,  
21 sir.

22 Q. I heard it. I heard your answer.

23 A. You had a second question, which  
24 lasted --

25 Do you withdraw that question? I just



1 want to make sure that I answer your question.

2 Q. I'm withdrawing the question. We'll move  
3 on.

4 In preparing your affirmative report,  
5 we -- you already stated that you did not review  
6 WAMY audits; correct?

7 A. I asked for but did not receive --

8 Q. And you asked from who, the plaintiff  
9 attorneys?

10 A. Yes.

11 Q. And, I mean, you -- so you asked for it  
12 but you never received it; correct?

13 A. That is correct. I received it after  
14 asking again, after the audit reports -- after the  
15 expert reports for the defense were provided, I  
16 asked for them again and got more. There were still  
17 many, many, many missing reports, but I did receive  
18 some reports as set forth in my supplemental  
19 statement.

20 Q. Okay. How many of the approximate 825  
21 projects report listed in Mark's appendix did you  
22 review in preparing for your rebuttal?

23 A. I reviewed the materials that I listed in  
24 my reliance report. I reviewed all the audits and  
25 material that were characterized as audits that I

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1     could find and was provided. If there were more, I  
2     would have -- been provided more, I would have read  
3     more. It's information that I consider to be of  
4     great use when there's audits.

5             The audits that were provided me and I  
6     asked for more did not correspond to the number  
7     described in one of your expert's reports, and I  
8     highlighted the difference between the number that  
9     was described and what was made available to me. I  
10    don't know whether there were additional audit  
11    reports available or not. I am aware of the  
12    representations regarding the report.

13            Q.     Do you know how many financial documents  
14    have been produced in this case?

15            A.     I do not know, first, how you described  
16    it, what the word financial means in this case.

17            Q.     Have you reviewed the receipts, WAMY  
18    receipts produced in this case?

19                   MR. HAEFELE: Objection to form.

20            A.     You'd have to show me receipts in a  
21    particular area. I reviewed some receipts. They  
22    were purported to be audit material that's described  
23    in one of your expert reports. I went in the  
24    reports and looked at all of the references to  
25    material in the expert report on the auditing

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1 issues, and went through those receipts.

2 Q. (BY MR. MOHAMMEDI) Have you reviewed  
3 financial reports?

4 A. I beg your pardon?

5 Q. Have you reviewed financial reports?

6 A. I don't know what -- how you're defining  
7 financial reports in this regard. Are you talking  
8 about --

9 Q. Do you know -- yeah, do you know that  
10 WAMY issues every year a financial report?

11 A. Yeah, for the -- globally? I did read  
12 those.

13 Q. You read those ones?

14 A. Yes.

15 Q. And have you read project report?

16 MR. HAEFELE: Objection to form.

17 A. I described the project report --  
18 material that was provided in connection with the  
19 audits that were provided to me, and that's what I  
20 focused on.

21 Q. (BY MR. MOHAMMEDI) And is it fair to say  
22 there was limited to the audit that's WAMY expert  
23 referred to; correct?

24 A. Yes, those are the only --

25 MR. HAEFELE: Objection to form.

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1           A.       Those are the only audits that I was  
2   aware of. I requested as much audit information as  
3   was available.

4           Q.       (BY MR. MOHAMMEDI) Did you have the  
5   appendix of reliance materials produced by Baker  
6   Tilly?

7                   MR. HAEFELE: Objection to form.

8           A.       I don't recollect.

9           Q.       (BY MR. MOHAMMEDI) Can you say -- as you  
10   sit here, that you have reviewed all documents in  
11   response -- in making your rebuttal that Baker Tilly  
12   relied on in producing the report?

13                  MR. HAEFELE: Objection to form,  
14   foundation. You haven't produced those, Omar.

15          Q.       (BY MR. MOHAMMEDI) They were produced.

16                  MR. HAEFELE: They were not produced.

17                  MR. MOHAMMEDI: Okay. So it -- we  
18   agree to disagree; they were produced.

19          Q.       (BY MR. MOHAMMEDI) Can you answer the  
20   question?

21          A.       I asked for all of the material that was  
22   relied upon. I reviewed -- material that I  
23   reviewed, I described in my reliance materials and  
24   as I stated in my supplemental report, there was a  
25   discrepancy between the number of audits that the

1 expert from Baker Tilly referred to and the number  
2 that I was able to review.

3 I described with specificity in my  
4 rebuttal report the audits that I was able to review  
5 and what was in back of it. In some cases, those  
6 were not actual audits. In some cases they were  
7 financial -- unaudited financial statements. In  
8 other cases they were just backup materials or  
9 materials about materials, which is to say they were  
10 materials that were in the general vicinity of some  
11 payments that were -- that may have been made but  
12 did not contain sufficient information to enable me  
13 to evaluate it, but they were most certainly not  
14 audits, although they were the material referred to  
15 in the Baker Tilly report.

16 Q. So --

17 A. So I was left unable to replicate that  
18 which the Baker Tilly report referred to based on  
19 the reference pages set forth in that report.

20 Q. Is it fair to say you did not ask the  
21 lawyers and the lawyers -- plaintiffs' lawyers did  
22 not send you the document, financial document of  
23 WAMY for you to render your opinion in your report,  
24 affirmative report, as well as rebuttal; correct?

25 MR. HAEFELE: Objection to form,

1 foundation. You have not produced all of  
2 those documents.

3 MR. MOHAMMEDI: Okay, we agree to  
4 disagree.

5 A. It is --

6 MR. MOHAMMEDI: Just state your  
7 objection.

8 A. May I respond to your question?

9 MR. MOHAMMEDI: State your objection,  
10 you don't need to make statements.

11 MR. HAEFELE: You're misleading the  
12 witness.

13 MR. MOHAMMEDI: It's not misleading.

14 MR. HAEFELE: It is.

15 MR. MOHAMMEDI: You're wrong.

16 Robert, you're wrong.

17 MR. HAEFELE: Well, you say I'm  
18 wrong. I say I'm right. But go ahead. I'm  
19 not stopping you from asking the questions.

20 Q. (BY MR. MOHAMMEDI) Go ahead.

21 A. In my -- before my initial report, I  
22 asked for all audit material. As reflected in that  
23 report, I received audit material for IIRO. I did  
24 not receive audits for WAMY. I did not receive  
25 audits from World Muslim League. I did receive the

1 annual financial reports which I found to be of a  
2 very general nature and not something that I found  
3 to be particularly useful.

4 And I did review that in connection with  
5 my original report. After reading the rebuttal --  
6 the reports from the defendants, the expert reports,  
7 I became aware of additional material and asked for  
8 that additional material. And when I asked for that  
9 additional material, I reviewed that material and  
10 provided my assessment to that material, which  
11 included the fact that some of the reports that were  
12 characterized as audits were not audits, some of  
13 them were not verified audits. They contained a  
14 variety of other deficiencies in their limitations.  
15 I noted the number of jurisdictions in which there  
16 were no --

17 Q. Mr. Winer, I've heard it three or four  
18 times.

19 A. This is what I did. It is not consistent  
20 with the question that you asked me, which is --

21 Q. The question -- the question I'm asking  
22 you is specific. The question I'm asking you, and  
23 I'm not going to go much more on this, because I --  
24 it is clear that you have not reviewed the financial  
25 documents produced by WAMY except for the ones that

1 the WAMY expert referred to. Correct?

2 MR. HAEFELE: Objection to form.

3 A. No, that's not correct. I reviewed the  
4 annual reports of WAMY.

5 Q. (BY MR. MOHAMMEDI) Okay.

6 A. I did not see other audits.

7 Q. Okay.

8 A. So if there are other audits, I would be  
9 happy to review them. I would be pleased to review  
10 additional audits.

11 Q. It's fair to say that you, for you,  
12 financial records are only audits; correct?

13 A. That's incorrect and it's a misstatement  
14 of what I just testified to.

15 Q. Okay. All right. Let's move on to -- in  
16 Section 2.4.1, at page 1 of your rebuttal, you state  
17 that: WAMY audit did not meet the international  
18 standard; correct? Do you remember that?  
19 International accounting standard.

20 A. Yes.

21 Q. Does a not-for-profit organization have  
22 the obligation to fulfill the international  
23 accounting standard?

24 A. It's a question of how much one is going  
25 to rely on an audit and whether the audit is



1 reliable.

2 For example, if an audit is undated, that  
3 doesn't conform to an international accounting and  
4 auditing practice, and that issue affects the  
5 quality and reliability of the report.

6 If an audit is carried out more than six  
7 months or some other reasonable period reflecting  
8 the circumstances, after the date of -- the period  
9 covered by the audit, and also reflects an  
10 inconsistency of what is considered to be best  
11 practice, and so on.

12 Q. Okay. Now, you also mentioned that WAMY  
13 has 66 regional and local offices; correct?

14 A. I looked at the web sites that were WAMY  
15 websites, as articulated and set forth in the  
16 footnote with the number of offices.

17 Q. And that's when you say 66 regional and  
18 local offices; correct?

19 A. That was what it was based on. I was  
20 explicit about what I looked at.

21 Q. And are you aware of how many offices  
22 between 1992 to 2002 those offices were existing at  
23 certain periods of time? Are you aware? Do you  
24 know that for you to render that state -- to render  
25 that opinion?

1           A.     The opinion is based on WAMY's website at  
2     2003, at that time.

3           Q.     And at that time, when you say that time,  
4     which time are you referring to?

5           A.     I'm referring to as of 2003. Because  
6     that's -- because the audits that were provided to  
7     me. So -- were over a period of the entire --  
8     covered by the entire litigation.

9                     And so that's within the period covered  
10    by the litigation. And so that reflects some  
11    percentage. As I said, there must have been at  
12    least 66, but if not all of them, but I can't tell  
13    the total number. And I go on to say that the  
14    number could have been from whatever -- a smaller  
15    number to a larger number, but I don't know how many  
16    there were. That's what's all contained in my  
17    supplemental report.

18          Q.     And it is fair to say that you were not  
19    aware how many offices were existing a certain  
20    period of time between 1992 and 2002; correct?

21          A.     I did not have a means at my disposal to  
22    look at the exact number of offices for each of the  
23    years.

24          Q.     Okay. Fair enough.

25                     If you go to Exhibit 53. And that will

1 be Document 28 -- 29. 929? 931.

2 (Winer Deposition Exhibit 931,  
3 Statistical Report for Documents by  
4 Branch Office, was marked for  
5 identification.)

6 Q. (BY MR. MOHAMMEDI) This document is  
7 court filing that was in 2000 -- October 31, 2018.  
8 And it was an affirmation of -- my information with  
9 the documents that were produced in this case  
10 related to -- the financial documents related to  
11 various chapters.

12 Have you seen this document?

13 MR. HAEFELE: Objection to form.

14 A. I don't recollect.

15 Q. (BY MR. MOHAMMEDI) Okay.

16 A. It doesn't look complete to me.

17 Q. That was not my question. Have you seen  
18 this document?

19 A. I don't recollect.

20 Q. Okay. If you'd go to Exhibit 54. That  
21 we sent.

22 A. Pardon me. On this document, sir, is  
23 this the only page or are there additional pages?

24 Q. Yeah, it was an exhibit to a motion.

25 Can you go back to that exhibit one more

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1 time?

2 Yeah, can you go down?

3 Is that the exhibit we entered before?

4 Yeah.

5 Do you see how many pages? There are six  
6 pages.

7 A. Yeah, I don't recollect seeing this  
8 document.

9 Q. Where are we -- are we at Exhibit 54?  
10 Exhibit 54.

11 (Winer Deposition Exhibit 932, WAMY's  
12 Responses to Plaintiffs' Exhibit 15,  
13 was marked for identification.)

14 MR. HAEFELE: Omar, are you talking  
15 about Exhibit 931, now?

16 Q. (BY MR. MOHAMMEDI) Have you seen this  
17 document before?

18 A. No.

19 Q. And that was actually the report filed  
20 with the court on April 2nd, 2018.

21 A. This refers to annual reports. It  
22 doesn't refer to audits.

23 Q. Yes, I'm -- yes, it does refer to annual  
24 reports, yes.

25 If you -- you can bring this down.

1 That's fine.

2 You did not -- so you have not seen,  
3 which means you have not relied on these documents  
4 for you to be able to render your opinion; correct?

5 A. I received annual reports from the  
6 defendants, and as of right now, cannot remember  
7 which annual reports I reviewed. The best of my  
8 memory, I reviewed reports for the organization as a  
9 whole, that were there, global reports, and did not  
10 review annual report -- reports for the subchapters  
11 of the individual offices.

12 I did review the audits referred to in my  
13 supplemental report, which would be of greater value  
14 in assessing what's going on.

15 Q. Okay. Is it your opinion missing audit  
16 equates with support to terrorism?

17 A. Will you please repeat the question?

18 Q. Is it your opinion that missing audits  
19 equates to supporting terrorism?

20 A. Missing audits are relevant to this case  
21 because when you don't have an audit, you don't know  
22 whether what's been reported in a financial report  
23 as to spending, how that corresponded to the actual  
24 spending, and whether there was ever a check that  
25 was undertaken of the spending. So it's very

1 relevant to interpreting a financial report. In  
2 fact, essential. Particularly in a field where  
3 there is assistance being provided in a conflict  
4 zone, for example.

5 So it's of great relevance and  
6 importance. The fact that an audit report -- an  
7 audit has not been undertaken, its significance is  
8 going to be different in different circumstances.  
9 In the circumstances of this case, it's very  
10 important.

11 Q. Is a not-for-profit organization  
12 obligated to issue a report?

13 A. It depends on the laws of the country in  
14 which it's operating, and the laws of the country in  
15 which it's chartered, what's it required to do.

16 Q. And are you an expert on financial  
17 aspects of income in Saudi Arabia? On the standard?

18 A. It depends what question you're asking.  
19 I am very familiar with the lack of controls in  
20 accounting, auditing -- please let me answer your  
21 question -- and money laundering controls that were  
22 in place at the time that I did my investigations of  
23 BCCI in the senate. I was also familiar with the  
24 lack of accountability in the Kingdom of Saudi  
25 Arabia as of the time I left the Department of State

1 in the late 1990s.

2 I've had recent experience in connection  
3 with certain matters associated with Saudi Arabia  
4 which lead me to believe that the standards have  
5 changed substantially over the last 20 years, but I  
6 did have representations made in the amount of  
7 standards back then, and they were not standards the  
8 United States government was happy about.

9 Q. (BY MR. MOHAMMEDI) Are you an expert in  
10 countries implementing the international standards  
11 in their own countries? Are you an expert in the  
12 field?

13 A. That's what I was retained to provide  
14 analysis and assistance on to the United States  
15 government from 2000 through 2008 in the area of  
16 money laundering, terrorist finance, and corruption,  
17 vulnerability; both vulnerability, the systems to  
18 combat it, the nature of the threat, and how we  
19 might evaluate the effectiveness of the system  
20 against the threat.

21 So where I was asked to look at that set  
22 of issues in an integrated fashion for, as mentioned  
23 in one of my statements, for a very large number of  
24 countries around the world, including essentially  
25 every country, if not every country in the Middle

1 East.

2 Q. So as you sit here, you are telling me  
3 that you are an expert in maintaining of the  
4 standard -- international banking standard in the  
5 countries that you are referring to?

6 A. In relationship to financial crime, yes.

7 Q. What about the standard --

8 A. The --

9 Q. I'm talking about the financial standard,  
10 not the crimes. I'm talking the standard of  
11 implementation of banking standard in countries.

12 A. In the late 1990s, when I was in the  
13 United States government, we became very focused on  
14 the fact that there were essentially no controls on  
15 movements of funds in most if not all -- actually  
16 all at that point of the Middle Eastern states.  
17 Whether they were Christian states, Muslim states,  
18 or Jewish states, it was a problem across the board.  
19 It was particularly a problem in countries that  
20 didn't have annual taxes, that didn't have an income  
21 tax.

22 And so one of the things that the  
23 treasury department, the justice department, the  
24 State Department focused on, in response to  
25 direction from the White House, was how we start



1 ratcheting up to these standards. And that was part  
2 of the work that was undertaken by the Financial  
3 Action Task Force in the late 1990s.

4 After I left the government, I was asked  
5 to continue to evaluate the situation in a large  
6 number of countries, including all the countries in  
7 the Middle East in this territory.

8 Q. And you were saying this including the  
9 Saudis and the accounting standard as implemented  
10 from the international standards; correct?

11 A. It would -- no, it would be too much to  
12 say the accounting standard, because I did not cover  
13 the details of accounting standards. I looked at  
14 the overall regulatory and enforcement system, which  
15 looked at financial transparency and accountability,  
16 and what the controls were in place in the banking  
17 system at that time. And that in turn looked at the  
18 practices of businesses and sort of the general  
19 level of oversight, which was poor.

20 Q. And is it fair to say you did make the  
21 similar statement during the TD Bank case when you  
22 said that you were an expert in implementation of  
23 the accounting standard in Canada and you were  
24 excluded; correct?

25 A. That's not correct.

1 Q. It's not correct? Okay.

2 A. That is not correct. You've misstated  
3 both the judge's finding and my statements.

4 Q. Okay. In your affirmative report, you  
5 opined that you would not expect to see evidence of  
6 support for terrorism in the charity records. Do  
7 you remember that when you said that?

8 A. Oh, sure.

9 Q. Is that fact?

10 A. In my experience, from what I --

11 Q. No, is that the fact? I'm saying, is  
12 that a fact?

13 MR. HAEFELE: Objection to form.

14 A. Is what a fact?

15 Q. (BY MR. MOHAMMEDI) Is it a fact that you  
16 will not expect that charity supporting terrorism  
17 would not show charity's record doing so?

18 A. I can provide an example from my report  
19 which addresses this very issue.

20 Q. Okay. We can go through the examples.

21 A. Which is the Third World Relief Agency,  
22 which mischaracterized what it was doing; instead of  
23 one thing -- the director was doing one thing.

24 Q. Okay. Speaking --

25 A. And one fax showed it was doing something

1 very different, as well as a number of statements  
2 and other information.

3 Charities like the Canada charity are at  
4 minimum at risk of losing, immediately, their  
5 accreditation as a charity if they declare any  
6 purpose that is outside the legitimate purpose of a  
7 charity. Terrorism is not a legitimate purpose of a  
8 charity anywhere. And since terrorism is not a  
9 legitimate purpose --

10 Q. You are --

11 A. -- charities are not going to be in a  
12 position that they're engaged in supporting  
13 terrorism.

14 Q. So you are equating -- you are equating  
15 lack of transparency, right, of a charity's record  
16 to terrorism; correct? Is that what you are doing?

17 MR. HAEFELE: Objection to form.

18 A. No, that's not correct.

19 Q. (BY MR. MOHAMMEDI) That's exactly what  
20 you're doing.

21 MR. HAEFELE: Objection to form,  
22 argumentative.

23 Q. (BY MR. MOHAMMEDI) Let me ask you  
24 another question. Was TWRA designated?

25 A. I beg your pardon?

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1 Q. Was TWRA designated?

2 A. I believe it was out of business by the  
3 time --

4 Q. My question, was it designated?

5 MR. HAEFELE: Objection to form,  
6 misleading.

7 A. TWRA has not been designated by the  
8 United States government or by the UN as providing  
9 terrorist finance.

10 MR. MOHAMMEDI: Okay. Can we take  
11 five minutes' break, please?

12 THE VIDEOGRAPHER: We are going to go  
13 off the record at 6:40 p.m.

14 (Recess taken, 6:40 p.m. to  
15 6:54 p.m. EDT)

16 THE VIDEOGRAPHER: Back on record at  
17 6:54 p.m.

18 MR. HAEFELE: 6:54, David?

19 Before we went off, there was an  
20 exchange where the witness got cut off in his  
21 answer. The question was, my question was --  
22 quote: My question, was it designated -- the  
23 witness was TWR designated? I believe it was  
24 out of business by that time is the answer.  
25 He got cut off again by Mr. Mohammedi when he

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1 was saying: My question wasn't designated.

2 And I think that Mr. Winer has indicated --

3 You know, I read the transcript and  
4 it's clear that he was cut off. I think  
5 Mr. Winer needs to finish answering that  
6 question.

7 MR. MOHAMMEDI: Just for the record,  
8 I was -- my question was if TWRA was  
9 designated and I was asking the question.

10 MR. HAEFELE: And he was answering  
11 the question when you cut him off.

12 A. It was out of business at the time the  
13 U.S. was designating charities for terrorist  
14 finance, so it could not be designated or would not  
15 be designated because it was no longer in operation  
16 at that time. It was the same issue with the Rabita  
17 Trust. Rabita Trust.

18 Q. (BY MR. MOHAMMEDI) Is TWRA, can you  
19 just -- sorry, strike that.

20 Do you have any facts to show that TWRA  
21 gave any material support to 9/11?

22 MR. HAEFELE: And just so I'm clear,  
23 Omar, are you saying TWRI or --

24 MR. MOHAMMEDI: TWRA.

25 MR. HAEFELE: The last letter is A.

1 MR. MOHAMMEDI: A.

2 A. I didn't hear the last part of the  
3 sentence. Please repeat it.

4 Q. (BY MR. MOHAMMEDI) Does TWRA have any  
5 connection for support to 9/11? Did it have any  
6 support?

7 MR. HAEFELE: Object to the form.

8 A. It depends on how you define 9/11. If  
9 you're saying did it have any connection to the  
10 \$500,000 provided for the immediate logistics for  
11 9/11, certainly not.

12 As part of the array of charities that  
13 provided military support for combatants, in the  
14 name of Islam, in the -- what I call the ABC wars,  
15 Afghanistan, Bosnia, Chechnya, it was not limited to  
16 that. The answer is I believe it did provide  
17 material support for the training of the Islamic  
18 resistance, which was in turn part of what al-Qaeda  
19 relied on as part of the chain of events that led to  
20 9/11.

21 Q. (BY MR. MOHAMMEDI) And you are basing  
22 this statement on a Bosnian war where the Bosniaks  
23 were subjected to genocide; correct?

24 MR. HAEFELE: Objection to the form.

25 A. The Bosniaks were not the only group that

1     were victims in that war. This was a civil war in  
2     which the various parties to the war all suffered  
3     deaths and losses. There was fighting between the  
4     Serbs and the Croats, and murders involving Serbs  
5     and Croats which did not involve the people of  
6     Bosnia. And Izetbegovic, who I knew, as well as  
7     Tudjman, and Miloševic, were all busy accumulating  
8     armies as fast as they could and setting their  
9     warriors upon one another.

10                     And the United States' goal at the time  
11     that this was taking place was to stop it all from  
12     happening. And ultimately the United States  
13     undertook a campaign to stop the war, which was  
14     horrific every which way around. And the war was  
15     exploited by people who were doing a recruitment for  
16     terrorism and jihad, among other things.

17             Q.     (BY MR. MOHAMMEDI) And that's your  
18     opinion, correct?

19             A.     Yes.

20             Q.     And you have facts to support that,  
21     right?

22             A.     Yes.

23             Q.     Did WAMY or did it ever conclude that --  
24     strike that. Can we get Exhibit 55?

25                     (Winer Deposition Exhibit 933,

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1 International Standard on Auditing  
2 580 Written Representations, was  
3 marked for identification.)

4 Q. (BY MR. MOHAMMEDI) And just before we go  
5 to the exhibit, Mr. Winer, you're -- the facts that  
6 you are referring to are in your reports; correct?

7 A. Yes.

8 TRIAL TECHNICIAN: Mr. Mohammedi,  
9 there is no Exhibit 55 in this folder.

10 MR. MOHAMMEDI: Can we just hold --  
11 go off record for a few seconds? I'm not sure  
12 why, but let me check.

13 THE VIDEOGRAPHER: Off the record at  
14 7:00 p.m.

15 (Recess taken, 7:00 p.m. to  
16 7:03 p.m. EDT)

17 THE VIDEOGRAPHER: We are back on the  
18 record at 7:04 p.m.

19 Q. (BY MR. MOHAMMEDI) Okay. So if you can  
20 put that Exhibit 55, which I was referring to.

21 Mr. Winer, do you know about this  
22 International Standard on Auditing --

23 A. Yes.

24 Q. -- 580 Written Representations?

25 A. Mm-hmm.



1 Q. Yes, right?

2 A. Yes.

3 Q. If you go to page 3 to 5. And they're  
4 highlighted for sections.

5 And it says: International Standard on  
6 Auditing deals with the auditor's responsibility to  
7 obtain written representations from management and,  
8 where appropriate, those charged with governance in  
9 an audit of financial statements.

10 Then it goes on. It says: Although  
11 written representations provide necessary audit  
12 evidence, they do not provide sufficient appropriate  
13 audit evidence on their own about -- of any of the  
14 matters with which they deal. Further, the fact  
15 that management has provided reliable written  
16 representation does not affect the nature or extent  
17 of other audit evidence that the auditor obtains  
18 from the fulfillment of the management's  
19 responsibilities, or about specific assertions.

20 So, is it fair to say that auditors can  
21 rely on the management representation; correct?

22 MR. HAEFELE: Objection to form.

23 A. I don't think it's fair to say that.

24 What it says is that the fact that management --  
25 when a manager provides reliable written

1 representations, it doesn't affect the nature or  
2 extent of other audit evidence that the auditor  
3 obtains about the fulfillment of management's  
4 responsibilities or about specific assertions.

5 In essence it says the auditor has do a  
6 proper audit and not just rely on management.

7 Q. (BY MR. MOHAMMEDI) Can you go to the  
8 objective, the next one, 6, what it says?

9 A. Uh-huh.

10 Q. The objectives of the auditor are to  
11 obtain written representations from management. Can  
12 you make it smaller, the way it was? I cannot read  
13 it like that, unfortunately. Thank you.

14 A. Yes, the paragraph -- I'll wait for your  
15 question.

16 Q. So the paragraph relies to the management  
17 representation, right? And the auditor can rely on  
18 the management representation; correct?

19 MR. HAEFELE: Objection to the form.

20 A. What is your question, again, sir?

21 Q. (BY MR. MOHAMMEDI) Is it fair to say  
22 that this standard allows for the auditor to -- or  
23 relied on the management's representation?

24 MR. HAEFELE: Objection, asked and  
25 answered.

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1           A.       I'm going to respond to this question as  
2 completely as I can, limiting myself to the material  
3 that is highlighted in yellow.

4                   Actually, I'm not, I'm going to go to  
5 paragraph 3 first.

6                   Audit evidence is the information used by  
7 the auditor in arriving at the conclusions. Written  
8 representations are necessary in connection with the  
9 audit. Written representations are audit evidence.  
10 Although they provide necessary audit evidence, they  
11 do not provide sufficient audit evidence on their  
12 own about any of the matters in which they deal.

13                  Furthermore, the fact that management has  
14 provided reliable written representations does not  
15 affect the nature or extent of other audit evidence  
16 that the auditor obtains about the fulfillment of  
17 management's responsibilities or about specific  
18 assertions.

19                  I'm going to now describe the meaning of  
20 that, and then I'm going to go to paragraph 6(b).

21                  You have to have written representations.  
22 It's necessary for an audit. But the written  
23 representations are insufficient. In addition, you  
24 have to have them from management. But that does  
25 not mean that that alone is sufficient for the

1     audit.

2                     That's how I understand what's in  
3     paragraph 3 and paragraph 4. Necessary, but not in  
4     itself sufficient.

5                     Paragraph 6. The auditor has to obtain  
6     written representations from management and, where  
7     appropriate, those charts of governance that they  
8     believe they have fulfilled their responsibility for  
9     the preparation of the financial statements and the  
10    completeness of the information provided to the  
11    auditor. That's the first point. You have to get a  
12    representation from management that this is --

13            Q.     (BY MR. MOHAMMEDI) So you do -- you do  
14    get representations from the management and the  
15    standard allows it; correct?

16            A.     I'm sorry, you've interrupted me. May I  
17    complete?

18            Q.     I just -- you know, I -- this is not --  
19    this is not a two-hour explanation. I'm just  
20    asking, did the audit --

21            A.     You've asked me to respond to the  
22    material that you've highlighted as to what it  
23    means, and I'm responding to it.

24            Q.     So the standard allows for the  
25    management --

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1 MR. HAEFELE: Mr. Mohammedi, you  
2 continue to interrupt the witness.

3 MR. MOHAMMEDI: Stop, Robert. Let me  
4 ask the question.

5 MR. HAEFELE: No, you've already  
6 asked the question that the witness is in the  
7 middle of an answer.

8 MR. MOHAMMEDI: It's not --

9 MR. HAEFELE: The witness --  
10 Omar, stop.

11 MR. MOHAMMEDI: We have to go off  
12 record if you want to argue, because I have  
13 the specific question --

14 MR. HAEFELE: No, you have to let the  
15 witness answer the question. I'll stop. Let  
16 the witness answer.

17 Q. (BY MR. MOHAMMEDI) Does the standard  
18 allow for --

19 MR. HAEFELE: Let the record reflect  
20 that the witness has not finished answering  
21 the prior question.

22 MR. MOHAMMEDI: Go ahead.

23 A. The objective of the auditor are to do  
24 two things as shown on this page: To obtain written  
25 representations from management and other relevant

1 persons that they've fulfilled their responsibility  
2 to prepare the financial statements and for the  
3 completeness of that information.

4 That's one element you see in every --  
5 I've seen it in essentially every financial  
6 statement I've ever looked at, that management will  
7 attest that they've met their responsibilities.

8 And then there's a second part, which is  
9 also essential which is support that -- to support  
10 other audit evidence relevant to the financial  
11 statements or specific assertions by means of  
12 written representations if determined necessary by  
13 the auditor or acquired by other ISAs, and then  
14 there's more on the next page which we should go to.

15 Q. (BY MR. MOHAMMEDI) Let me take you to  
16 paragraph 16, page 5.

17 MR. HAEFELE: Just to be clear,  
18 you're not going to let him finish the answer  
19 by looking at the rest --

20 MR. MOHAMMEDI: I just want to look  
21 at the specific areas that I'd like to  
22 question back.

23 MR. HAEFELE: But he's indicated he  
24 needs to see the next page.

25 Q. (BY MR. MOHAMMEDI) Okay. He can see the

1 next; but let me ask the question first and keep  
2 going and tell me if based on what you review on the  
3 next page?

4 MR. HAEFELE: I don't understand why  
5 you can't let the man answer the question.

6 Q. (BY MR. MOHAMMEDI) Okay. Go ahead and  
7 answer the question.

8 A. I would like to see the further part  
9 which those paragraphs pertain to. There is a part  
10 C, I believe.

11 It would be the next page following on  
12 the page we looked at a moment ago.

13 Q. Okay. So before we go to page -- to C,  
14 I'd like to direct you to Section 16, which are part  
15 of the -- if you go -- before we go to C, and then  
16 allow you to go through C and tell me what you  
17 think.

18 MR. HAEFELE: Let me just -- I'm  
19 going to object to you breaking his train of  
20 thought and not letting him answer the  
21 question.

22 Go ahead, Omar. If you want to ask  
23 the question and prohibit the --

24 MR. MOHAMMEDI: I am not prohibiting,  
25 I'm going -- I'm going in chronological order,

1           and he -- and the witness want to go C, we're  
2           not even there yet.

3                       So I'm going to ask for paragraph 16,  
4           where the auditor, I guess doubt as to the  
5           reliability of written representations. If  
6           the auditor has concern about the competence,  
7           integrity, ethical values, or diligence of  
8           management or about his commitment to or  
9           enforcement of these, the auditor shall  
10          determine that effect that such concerns may  
11          have on the reliability of representations,  
12          (oral or written.)

13                      Is that fair to say?

14          A.       Yes.

15          Q.       (BY MR. MOHAMMEDI) That is the standard,  
16          right? Part of the standard?

17          A.       Yes. That's correct.

18          Q.       Did WAMY auditor ever conclude that an  
19          audit could not be completed due to concern about  
20          competency and integrity, ethical values or  
21          diligence of WAMY management?

22                      MR. HAEFELE: Objection to form.

23          A.       I would have to go back and look at each  
24          of the audits on that point. There were a number of  
25          issues that arose in connection with the WAMY audit,



1     which I covered in my report; but after this number  
2     of hours of testimony, I can't bring to mind  
3     precisely what I said about each of the WAMY audits.  
4     I would have to go back and look at them in order to  
5     do that. But I know paragraph 17, right below the  
6     paragraph you quoted which is also relevant and  
7     which I would like to have included in the record,  
8     which is the notion of further work in order to  
9     determine what's actually going on when necessary.

10                     And good audits are going to do both 16  
11     and 17, when issues arise. And I'd have to look at  
12     the WAMY audits again. There were certainly audits  
13     of some of the charities that did raise those  
14     issues. I believe it's on IIRO, but I believe that  
15     there was some for the others as well, it's just at  
16     this point I am fatigued, and I would have to look  
17     at the particular audits in order to look at each  
18     one and assess what the auditors said regarding each  
19     one, as I did in some detail in my rebuttal report.

20             Q.       (BY MR. MOHAMMEDI) In your  
21     Section 2.17.2, at page 11, it's related to WAMY  
22     Pakistan again. Of your rebuttal report.

23                     You are stating that the audit lacks of  
24     control but the audit described the type of control  
25     of booking error by WAMY; is that correct?

1 MR. HAEFELE: Object to the form.

2 A. First, you said we would go back to the  
3 other question, and I would like to do that before  
4 going on to this new area which relates to another  
5 part of my report.

6 May we do that?

7 Q. (BY MR. MOHAMMEDI) No. We are going to  
8 this -- to this section now.

9 A. Okay.

10 Section -- oh, yeah. Yeah. We had --  
11 there's quite a bit on the limitations in the WAMY  
12 audits, which I addressed in the report. Which  
13 section do you want me to go to, please?

14 Q. My question is that, isn't that true,  
15 that when the auditor refers to some booking errors,  
16 really describe the type of control that you claim  
17 it does not exist at WAMY when they hired reputable  
18 auditor to go through their financial statements and  
19 audit their financial matters?

20 MR. HAEFELE: Objection to form.

21 A. This paragraph, paragraph 2.17, describes  
22 various weaknesses and deficiencies in the audit  
23 that we're talking about, which is that the audit  
24 did not include release dates; we could not possibly  
25 determine when -- whether they were timely. And

1 then it goes into a variety of other issues. Let me  
2 just see which part we are in. Hold on. We're in  
3 paragraph 2.17.3, which is the 2000 audit. Is that  
4 correct? The 2000 audit?

5 Q. (BY MR. MOHAMMEDI) 2001 -- 2000 audit, I  
6 believe, yes.

7 It's 2000-2001, audit.

8 MR. MOHAMMEDI: So we can bring that  
9 up. Why don't we bring that up. That is  
10 Exhibit 56.

11 A. That would be better. Thank you.

12 (Winer Deposition Exhibit 934, World  
13 Assembly of Muslim Youth - Pakistan  
14 Office, Accounts for the Year Ended  
15 30 Zulhijjah 1422 Hijrah, was marked  
16 for identification.)

17 Q. (BY MR. MOHAMMEDI) So if you can see it  
18 in page 3 of that exhibit, the bookkeeping -- the  
19 audit refer to the error by WAMY, was an error  
20 failure to report the donation in kind value of  
21 tent, food stuff, clothes, and medicine.

22 Right?

23 [Document review.]

24 A. Yes, that's correct. That's what it  
25 says.

1           Q.       (BY MR. MOHAMMEDI)   So other than the  
2   auditor's reporting to in kind value, you failed to  
3   include that, what the auditor had said after that,  
4   when he said: In our opinion, except for the matter  
5   discussed in the above paragraph, the financial  
6   statements give a true and fair view of the  
7   financial position of WAMY as to -- as of 30  
8   Julhijjah -- sorry, it's written Zulhijjah, 1422  
9   Hijrah, which is the date -- and of the result of  
10   its operations and its cash flow for the year that  
11   ended prepared in accordance with accounting -- the  
12   International Accounting Standard as applicable in  
13   Pakistan.

14                   And that's the auditor's statement, on  
15   page 3.

16           A.       Yes, and we're talking which audit year  
17   again, please?

18           Q.       That's 2001, the one we just put it on  
19   for you to review.

20           A.       Right.

21                   I quoted extensively from the reports  
22   what the auditors found. The last sentence that you  
23   have put down is that they've accepted assurance  
24   from the Jeju that all of WAMY's transactions have  
25   been reflected in the records.

1           It's certainly not clear to me from this  
2   report what testing was done of this in the field to  
3   determine whether what was reported is what was  
4   actually spent. So they're -- they're -- they're  
5   noting here, limits on independent confirmation and  
6   acceptance of assurance.

7           And that's a critical sentence, as far as  
8   I'm concerned.

9           Q.    Do you have any evidence to show that  
10   food, tents, clothes went to al-Qaeda instead of the  
11   needy, based on the report?

12          A.    We don't know what went where based on  
13   the report. What we know is that the discrepancy is  
14   very substantial in terms of being locked, the sheer  
15   amount. As a percentage of the total.

16          Q.    The discrepancy was failure to report;  
17   correct?

18          A.    It's a discrepancy in financial reporting  
19   which took place at the very time the -- when the  
20   area covered by that office of WAMY, the  
21   Pakistan/Afghanistan border regions, was one of the  
22   centers for al-Qaeda in its preparation for attacks  
23   in the United States.

24               And it also -- there's a question here as  
25   to when this report was prepared as well. Which I

1 note in my expert report, because the -- the audit  
2 is stamped, but it's with a June 12th date with the  
3 year illegible, and it's the same as an audit report  
4 for another year, the same June 12th date, raising  
5 the question of whether both audits, one for 2000,  
6 2001, were both delayed until June 2003, and if so,  
7 why?

8 So there are a number of questions that I  
9 had which I can't answer about what this report  
10 actually attests to and whether it meets  
11 International Accounting Standards.

12 Q. And it is -- so you do not have any  
13 evidence that food, tents, clothes went to al-Qaeda  
14 instead of the needy; correct?

15 A. I don't believe the auditor had any  
16 evidence one way or the other.

17 Q. Right. The question is to you. Do you  
18 know --

19 A. The question -- the issue is not the  
20 evidence that I have.

21 Q. No, the question is the evidence that you  
22 have; it's not what the auditor has. Because you  
23 are claiming that this went to al-Qaeda, so the  
24 evidence is for you to prove, not for audit. Audit  
25 is not saying that. You are saying that.

1           The auditor is not saying that. You are  
2   saying that.

3           MR. HAEFELE: Objection to form.

4           Watch your tone, please.

5           A.     Is that a question, sir?

6           Q.     (BY MR. MOHAMMEDI) The question, do you  
7   have any evidence that food, tents, clothes went to  
8   al-Qaeda instead of the needy?

9           A.     This report does not allow one to know  
10   what the material -- what the goods went to or even  
11   if the goods that went there were as represented in  
12   the report.

13          Q.     And what is in your report is an  
14   assumption; correct?

15          A.     I couldn't understand your last --

16          Q.     What's in your report is assumption.  
17                   You're assuming. You don't have evidence  
18   to show.

19          A.     I disagree with your characterization of  
20   my report and of the testimony I've given.

21          Q.     Okay. In your rebuttal Section 2.17.5,  
22   page 14, from 1998 to 1994, Pakistan audit. You're  
23   referring to that.

24                 You went on and explained the categories  
25   are student welfare. That is a red flag; right?

1 For supporting terrorists. Is that correct?

2 A. It's a red flag for the kind of slush  
3 fund category that would enable a charity operating  
4 in an area of conflict to provide support for a  
5 terrorist group because it's providing support for  
6 young men in an area of conflict that is foreign to  
7 them. In other words, you had foreign fighters in  
8 this period of time in Pakistan and Afghanistan,  
9 foreign meaning they're not Pakistani and they're  
10 not Afghani, and there's money being provided for  
11 them for student welfare. So it's a slush fund.  
12 And there are no controls. There's a complete lack  
13 of controls. There's no evidence of any controls on  
14 the actual uses. And that's what I'm -- my  
15 statement is essentially saying.

16 Q. Do you know which is the objective of  
17 WAMY?

18 Do you know the name itself, what it  
19 means? The World Assembly of Muslim Youth?

20 MR. HAEFELE: Object to form.

21 Q. (BY MR. MOHAMMEDI) Do you know the  
22 objective of providing student with funds to educate  
23 them?

24 A. Yes, I'm -- but what -- it's more  
25 difficult for me to know what's being done when the



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1 people to whom the funds are being provided are in  
2 an active area of conflict or in an area that is  
3 over -- has got a substantial number of terrorist  
4 training camps and a terrorist presence in it.

5 Q. And that's --

6 A. And the issue --

7 Let me finish my answer, please, sir.

8 Q. Go ahead.

9 A. Thank you.

10 So the issue is the location of where the  
11 activity is, and the fact that this category of  
12 funding is different from the kinds of categories of  
13 funding audits show for areas that were not in  
14 conflict. You don't -- I didn't see these  
15 categories in the other -- in the audits you  
16 provided to me, and were provided to me, for WAMY,  
17 in areas that were not conflict zones, that were  
18 less susceptible to terrorist risk.

19 The fact that these categories appear in  
20 these audits in this location at this time is of  
21 concern and fits precisely within the  
22 vulnerabilities that have been -- that have been  
23 evident for years, and which reflect the 1996  
24 findings of the CIA in the 1966 report -- pardon me,  
25 the 1996 report in Bosnia.

1                   So it's not merely that this is a  
2   category of potential substantial risk and abuse,  
3   it's also that this category was not present --

4           Q.     Okay.  And --

5           A.     -- in the audits that took place after  
6   9/11, in areas that were not conflict areas.

7           Q.     So your testimony, because it's in an  
8   conflict zone that then it should be used to support  
9   terrorism; correct?

10          A.     That's not a correct statement of my  
11   views or --

12          Q.     You said that exactly.  You said because  
13   of a place of conflict.  That's exactly what you  
14   said.  Correct?

15                   MR. HAEFELE:  Objection,  
16                   argumentative.

17          A.     It is not exactly what I said.

18          Q.     (BY MR. MOHAMMEDI)  Okay.  Let me -- so  
19   is it fair to say --

20          A.     That's not what I said at all.

21          Q.     Okay.  So is it fair to say place of  
22   conflict and the places where there is a war, where  
23   there are refugees, place of, that's exactly -- we  
24   can assume that where you have the students' welfare  
25   being used to help the population that is affected

1 by the war; correct?

2 A. That's partially true. There's going to  
3 be refugees in many areas that are affected by war  
4 and conflict. The issue is that in this area they  
5 were foreign fighters. And so it made it  
6 particularly vulnerable. And when you have an area  
7 that's particularly vulnerable to abuse because of  
8 the overall conditions, it's a good idea to put more  
9 controls in place. And rather than having more  
10 controls in place, what you have instead is this  
11 kind of slush fund category, that you don't see  
12 elsewhere. And this was precisely the period of  
13 time when al-Qaeda was preparing using foreign  
14 fighters who had been in conflict zones to send them  
15 to the United States and had them in training camps.

16 Q. As you sit here, you have no facts to  
17 show that; correct?

18 MR. HAEFELE: Objection.

19 A. I disagree with your assertion.

20 Q. (BY MR. MOHAMMEDI) And the facts are in  
21 your report; correct?

22 MR. HAEFELE: Objection to form.

23 A. There are facts in my report which  
24 references additional reports. There was  
25 paramilitary support by charities for combatants in

1 the countries that were going through religious war  
2 or wars involving Muslims and non-Muslims.

3 And --

4 Q. (BY MR. MOHAMMEDI) Mr. Winer --

5 A. Okay.

6 Q. Mr. Winer, why do you always refer to  
7 this matter of conflict as a religious war, Muslims  
8 versus non-Muslims. Do you know?

9 MR. HAEFELE: Objection to form --  
10 wait. Objection to form, objection he cut the  
11 witness off, and objection to the  
12 argumentative nature of your constant barrage  
13 with the witness.

14 A. I'm responding to your questions with  
15 answers that reflect my understanding of how  
16 al-Qaeda built its global strike capability over a  
17 period from the late 1980s through the late 1990s in  
18 preparation for 2001. And this is how it did it.  
19 And I have described that over the course of my  
20 testimony and over the course of my reports, and  
21 I've referenced a great deal of material in both.

22 Q. (BY MR. MOHAMMEDI) I just for the  
23 record, I, for the seven hours that I have been  
24 asking you questions about this matter, you have not  
25 provided one single fact related to your statements

1 about money being used to support al-Qaeda.

2 MR. HAEFELE: Objection, and

3 that's --

4 MR. MOHAMMEDI: -- before this.

5 MR. HAEFELE: Objection to the

6 dialogue. There is no question there.

7 Objection to your characterization --

8 MR. MOHAMMEDI: Is that correct? Is

9 that correct?

10 A. No, it's not correct. And the facts are  
11 set forth in my report and in the documents  
12 referenced in my report.

13 Q. (BY MR. MOHAMMEDI) Okay.

14 A. And I do provide specific examples in the  
15 report. You've chosen not to ask questions about  
16 them.

17 Q. I did ask a lot of questions about them,  
18 but you don't have the facts. There is no facts in  
19 your report, and I'm asking you to show me the facts  
20 in this deposition; correct?

21 A. Am I invited to go through the elements  
22 of my report that I would like to talk about?

23 Q. I have given you all the chances to do  
24 that.

25 Sir, let me --

1           A.       I -- sir, I don't agree with that  
2       characterization.

3                       MR. HAEFELE:   Neither do I.

4           Q.       (BY MR. MOHAMMEDI)   So do you -- again,  
5       do you have any facts showing that any money from  
6       student welfare went to support al-Qaeda?

7           A.       Because the controls were so weak.  
8       There's no information that is available to show  
9       precisely what the funds were actually spent for in  
10      the field.   That's the problem when you have lack of  
11      controls.   And the 9/11 Commission talked about this  
12      and other experts have talked about this.   If you  
13      don't have controls on the expenditure of cash in  
14      the field, or even the provision of goods, and it is  
15      going to people who are training to be fighters, to  
16      militants, and they cross over into terrorism and  
17      it's going to people at terrorist training camps,  
18      that's providing material support.

19                   Now, when you don't have the controls in  
20      place, it's going to be very difficult for anyone to  
21      reconstruct exactly when it happened and with whom.  
22      But there are data points, and the data points I go  
23      into in my report.   This part of my report is about  
24      the material weaknesses in the controls.   And so  
25      what you're asking me is, do you have proof that the

1 material weaknesses in the controls caused this  
2 person to engage in training, who then became a  
3 terrorist and participated in the 9/11 attack. And  
4 the answer is, there is no proof of that because by  
5 their very nature, this funding took place, the  
6 support took place without the controls that would  
7 have enabled anyone to reconstruct the support that  
8 led to al-Qaeda.

9               So instead, one has to rely on a lack of  
10 controls and the material deficiencies in the  
11 controls, the presence in the location, the nature  
12 of the people who were being served, the fact that  
13 they're foreign fighters rather than domestic or  
14 local -- they're foreigners rather than domestic or  
15 local people, and a variety of other factors as I've  
16 illustrated in the report.

17               Moreover, the report goes into facts such  
18 as the provision of travel documents and  
19 facilitation and so on. One would then have to get  
20 quite granular, and you've not asked me about those  
21 granular issues.

22               Q.     I did ask you to answer them, but let's  
23 move on.

24               Now, rebut -- in your rebuttal 2.34-2.35,  
25 page 28-29, you stated at Section 2.34, I understand

1 that WAMY's counsel in a premotion meet-and-confer  
2 represented that WAMY's overseas branch officers  
3 were recalcitrant and many of the offices did not  
4 properly maintain office records and did not submit  
5 required financial, administrative, operations, and  
6 activity reports to WAMY headquarters. And you said  
7 as documented in a Plaintiffs' Reply Memo of Law,  
8 whose substance on that issue did not refute.

9 In Section 2.35, you quote plaintiffs'  
10 counsel legal brief arguing that statement by WAMY  
11 counsel allegedly considered judicial admission; is  
12 that correct?

13 A. This language speaks for itself, I  
14 believe.

15 Q. Are counsel legal argument evidentiary  
16 basis for you to render an opinion?

17 MR. HAEFELE: Objection to form.

18 A. I see these letters as providing  
19 contemporaneous records of communication that took  
20 place in relationship to this case. If there are  
21 other contemporaneous records regarding these  
22 communications that are different from this, I would  
23 be pleased to review them and add them to my report.

24 Q. (BY MR. MOHAMMEDI) Did you ask  
25 plaintiffs' counsel if there was any finding to



1     rebut their claim?

2                     MR. HAEFELE:  Objection to form.

3             A.     I understand that this was the material  
4     that was available on this issue.

5             Q.     (BY MR. MOHAMMEDI)  And you --

6             A.     It's all in quotes.

7             Q.     Okay.  My question, did you ask  
8     plaintiffs' counsel if there was any filing to rebut  
9     their claims?

10                    MR. HAEFELE:  Objection to form.

11            A.     I wanted to know whether this was  
12     complete on these issues, and I understood that this  
13     was complete off of this issue.

14            Q.     (BY MR. MOHAMMEDI)  Are you aware that  
15     WAMY moved for and was granted reconsideration based  
16     specifically on plaintiffs' argument, raised only on  
17     reply motion not raised in their moving papers, that  
18     WAMY's counsel supposedly stated that office  
19     branches failed to provide reports to headquarters  
20     and that WAMY's compliance with discovery  
21     obligations relied upon those uncooperative  
22     branches?

23                    MR. HAEFELE:  Objection --

24            Q.     (BY MR. MOHAMMEDI)  Are you aware that  
25     WAMY moved for motion for reconsideration and was

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1 granted?

2 MR. HAEFELE: Objection to form.

3 This is --

4 A. I don't know what WAMY's counsel  
5 plaintiffs -- pardon me, for the defendants, did  
6 following this set of communications. If there's  
7 information that's relevant, I'm happy to review it.

8 Q. (BY MR. MOHAMMEDI) Let's put Exhibit 59.  
9 Motion for reconsideration.

10 (Winer Deposition Exhibit 935,  
11 Defendants World Assembly of Muslim  
12 Youth Saudi Arabia and World Assembly  
13 of Muslim Youth International  
14 Memorandum of Law in Support of  
15 Motion for Reconsideration of Section  
16 IV of The Court's Motion to Compel  
17 Ruling, was marked for  
18 identification.)

19 Q. (BY MR. MOHAMMEDI) If you go to page 3  
20 and footnote 2 of the motion, it says -- so if you  
21 go to: These allegations could not be farther from  
22 the truth. PEC's statements mischaracterize the  
23 meet-and-confer between WAMY and PEC and blindly  
24 assume that branch offices were solely responsible  
25 for collecting documents, without any oversight and

1 control by WAMY's counsel.

2 And the footnote states, the only chapter  
3 that has ignored counsel's instructions and  
4 directives is the Canada chapter.

5 And I can't read -- if you can make that  
6 smaller, I can just --

7 It says -- yes, thank you.

8 So there is a footnote there that says  
9 about only WAMY Canada, but that was not by the  
10 other chapters. Do you see that?

11 MR. HAEFELE: Objection to form.

12 Q. (BY MR. MOHAMMEDI) And use it for a  
13 motion for reconsideration and it was granted. Do  
14 you know that?

15 A. No.

16 Q. Okay. Let me direct you to Exhibit 60 of  
17 the court order.

18 (Winer Deposition Exhibit 936, In Re:  
19 Terrorist Attacks on September 11,  
20 2001 Opinion and Order, was marked  
21 for identification.)

22 Q. (BY MR. MOHAMMEDI) If you go -- this is  
23 a court order. In this -- related to this issue  
24 that you raised in your report.

25 MR. HAEFELE: Objection, apples and

1 oranges. Geez. Omar, this is --

2 MR. MOHAMMEDI: No problem.

3 MR. HAEFELE: This is way beyond the  
4 scope --

5 MR. MOHAMMEDI: Not speaking  
6 objection. You get to stop. You need to let  
7 me --

8 MR. HAEFELE: Objection --

9 MR. MOHAMMEDI: No speaking  
10 objection.

11 MR. HAEFELE: Objection, scope,  
12 vague, confusing --

13 MR. MOHAMMEDI: No, stop. The  
14 witness has -- has said in his report, I refer  
15 to your letter and your motion, and ignored  
16 the court order as well as a motion for --

17 MR. HAEFELE: But you're mixing  
18 apples and oranges here.

19 MR. MOHAMMEDI: I am not. Please,  
20 Robert, stop. You need to let me finish.  
21 Okay?

22 MR. HAEFELE: Please finish.

23 MR. MOHAMMEDI: Thank you.

24 Can you make it smaller, please?

25 MR. HAEFELE: But really small. Like

1 off-the-screen small.

2 MR. MOHAMMEDI: Thank you.

3 Q. (BY MR. MOHAMMEDI) Eleven of the bank  
4 branches identified by the PECs are not actually  
5 offices; rather work was conducted in these  
6 countries from branch offices in other locations.

7 Other branch offices were not formed  
8 until at least 2000, which suggests the number of  
9 responsive documents will be limited. For the  
10 remaining offices, WAMY has produced tens of  
11 thousand of pages for each office, including  
12 hundreds of financial documents.

13 As a result, WAMY has addressed the PEC's  
14 concern regarding the 22 specific WAMY overseas  
15 branch and the four WAMY branch offices in the  
16 Kingdom. And it refers to the ECF filing. That was  
17 an order for a motion for reconsideration in which  
18 we make the statement that was not plaintiffs --  
19 that was statement from plaintiff was not correct,  
20 and the judge order and grant to WAMY the motion for  
21 consideration that WAMY fulfilled its obligation to  
22 search and produce the financial document. Correct?

23 MR. HAEFELE: Objection to the form  
24 of the question.

25 A. In order to be able to respond to this

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1 document, I would need to be able to see more than  
2 just the material which you've highlighted in  
3 yellow.

4 Q. (BY MR. MOHAMMEDI) Have you considered  
5 this material before you rendered your opinion?

6 A. I had not seen this material.

7 Q. Okay.

8 A. And I can't evaluate it.

9 Q. Okay.

10 MR. MOHAMMEDI: How many times we  
11 have from seven hours and 30 minutes?

12 THE VIDEOGRAPHER: We have ten  
13 minutes left.

14 MR. MOHAMMEDI: Can we take the ten  
15 minutes to just regroup and come back? Just  
16 take five minutes to see if we have any  
17 further questions from our side.

18 MR. HAEFELE: What was that last  
19 number of that last exhibit?

20 THE REPORTER: The last exhibit was  
21 936. I marked it.

22 THE VIDEOGRAPHER: We're going to go  
23 off the record. 7:42 p.m.

24 (Recess taken, 7:42 p.m. to  
25 7:50 p.m. EDT)

1 THE VIDEOGRAPHER: Back on the record  
2 at 7:50 p.m.

3 MR. MOHAMMEDI: Mr. Winer, I do  
4 believe we're done for today. I guess we will  
5 reconvene back tomorrow, back at 10:00 a.m.

6 MR. HAEFELE: Well, actually, we need  
7 to start a little earlier tomorrow, I think,  
8 at 9 o'clock. So can we convene tomorrow at  
9 9 o'clock and the witness will be available at  
10 that time.

11 MR. MOHAMMEDI: Aisha?

12 MS. BEMBRY: Robert, you need to  
13 start at 9:00? I mean, we have, what,  
14 13 hours, so we've done seven and a half, we  
15 have about five and a half hours to go. Is  
16 there a reason you need to start at 9?

17 MR. HAEFELE: That's what Mr. Winer  
18 has indicated a preference, and quite frankly  
19 I don't disagree with him. I think that that  
20 would be a preference on everybody's part on  
21 our side.

22 THE WITNESS: I can represent that I  
23 have both personal and family issues that have  
24 arisen in the last day, as well as  
25 professional obligations in the latter part of

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1 the day, and therefore I prefer starting as  
2 early as possible, if it is possible.

3 MR. HAEFELE: I quite frankly -- I  
4 didn't realize we would go this late today and  
5 still have as much left tomorrow.

6 MR. MOHAMMEDI: Can you do 9:30?

7 MR. HAEFELE: Is there a reason why  
8 we need to start later?

9 MS. BEMBRY: It's fine. Let's go  
10 with 9:00 a.m. We can make that work. We'll  
11 start at 9:00. Omar, is that okay?

12 MR. MOHAMMEDI: I mean, I prefer  
13 9:30, if that's possible. Can we do 9:30?

14 MR. HAEFELE: I'll leave it up to  
15 Mr. Winer. I don't understand why we can't --

16 THE WITNESS: It's a question of how  
17 late we have to go tomorrow. I have other  
18 obligations and something has arisen today, as  
19 well as some client work in the evening. So,  
20 if we start at 9:30, I really hope it doesn't  
21 go until --

22 MR. MOHAMMEDI: I think we have done  
23 most of the -- I mean, we are over half, so we  
24 have done more than half and tomorrow is not  
25 going to go this -- to 7. Or 7:30. And if we



1 can start 9:30, would be better.

2 MR. HAEFELE: Omar, are you  
3 representing that at least for now, WAMY's  
4 questioning is done? You're done? Your  
5 questioning?

6 MR. MOHAMMEDI: We have to -- we have  
7 about few minutes left. We might be using it  
8 tomorrow.

9 MR. HAEFELE: Are you meaning you  
10 might start tomorrow or you're anticipating at  
11 the end --

12 MR. MOHAMMEDI: I'm not sure if we  
13 would start or not, but we have a few minutes  
14 at end we might be using.

15 MR. HAEFELE: So are we anticipating  
16 picking up with somebody from IIRO, Muslim  
17 World League tomorrow?

18 MS. BEMBRY: Yes, Eric will be  
19 starting tomorrow.

20 MR. HAEFELE: Okay. All right.

21 MS. BEMBRY: So are we at 9:30 or  
22 9:00?

23 MR. HAEFELE: I leave it to Mr. Winer  
24 at this point. I'm just not sure why we can't  
25 start at normal start time.

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1 THE WITNESS: I will accommodate and  
2 be at 9:30. I hope that you will have a much  
3 more limited time that is not a credit towards  
4 the clock tomorrow. There was a lot of time  
5 tolled that was not credited towards the  
6 clock, which is why this has gone on now for  
7 almost ten hours.

8 MR. MOHAMMEDI: And we appreciate  
9 that, Mr. Winer. Thank you very much for  
10 being gracious.

11 THE VIDEOGRAPHER: Are we all done?

12 MS. BEMBRY: Yep.

13 THE VIDEOGRAPHER: This ends today's  
14 deposition. We're going to go off the record  
15 at 7:54 p.m.

16 (Time noted: 7:54 p.m. EDT)

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CERTIFICATE

I, DEBRA A. DIBBLE, Registered Diplomate Reporter, Certified Realtime Reporter, Certified Court Reporter and Notary Public, do hereby certify that prior to the commencement of the examination, JONATHAN M. WINER was duly sworn by me to testify to the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a verbatim transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

I DO FURTHER CERTIFY that pursuant to FRCP Rule 30, signature of the witness was not requested by the witness or other party before the conclusion of the deposition.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.



---

DEBRA A. DIBBLE, RDR, CRR, CRC  
NCRA Registered Diplomate Reporter  
NCRA Certified Realtime Reporter  
Certified Court Reporter

Dated: 8-3-2021

INSTRUCTIONS TO WITNESS

Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made.

After doing so, please sign the errata sheet and date it.

You are signing same subject to the changes you have noted on the errata sheet, which will be attached to your deposition.

It is imperative that you return the original errata sheet to the deposing attorney within sixty (60) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.

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	ERRATA		
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1 ACKNOWLEDGMENT OF DEPONENT

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4 I, JONATHAN M. WINER, do hereby certify that I  
have read the foregoing pages and that the same is a  
5 correct transcription of the answers given by me to  
the questions therein propounded, except for the  
6 corrections or changes in form or substance, if any,  
noted in the attached  
7 Errata Sheet.

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12 \_\_\_\_\_  
JONATHAN M. WINER DATE

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Subscribed and sworn to before me this  
15 \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

16 My commission expires: \_\_\_\_\_

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Notary Public

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